JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF KENTUCKY

Regular Session of 1984

Volume I

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1984, and
in the One Hundred and Ninety-Second
Year of the Commonwealth

Begun on the Third Day of January, 1984, and Adjourned
Sine Die on the Thirteenth Day of April, 1984

Paid from State Funds

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Section 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes*, the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the House of Representatives of 1984.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Shan Stone Gray, Mrs. Jeanne Wallace, Mrs. Jenny May and Mrs. Delores Dearborn prepared the 1984 House Journal. The edited copy and index found in this volume reflect the cooperative efforts of the commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
1984

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION, 1984

TUESDAY, JANUARY 3, 1984

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 3, 1984, the one hundred and ninety-second year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Bobby Richardson assumed the Chair and called the House to order.

Prayer by Reverend James O. Thurmond of the First Methodist Church, Madisonville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Representative Caroline White produced her Certificate of Election.

The roll was called. All members present.

Representative LeMaster moved that the rules be suspended for introduction of and action upon Resolutions. Agreed.

Representative LeMaster moved the adoption of the following **HR 11:**

HR 11, A RESOLUTION adopting temporary Rules to govern the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Rules adopted by the House of Representatives to govern the 1982 regular session of the House of Representatives be adopted as the temporary Rules governing the session beginning January 3, 1984, to remain in effect until superseded by the adoption of permanent Rules.

HR 11 was adopted by voice vote.

Representative LeMaster moved the adoption of the following **HR 12:**

HR 12, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House and open sessions thereof with prayer.

HR 12 was adopted by voice vote.

Motions, Petitions and Communications

The Speaker announced that pursuant to KRS 118.730 a call be issued for a special election on January 24, 1984 to fill seats vacated by Representatives Haering and Schmidt.

Representative Holloway announced that the Republican Party in caucus assembled had elected the following Minority Party House leadership:

Floor Leader - Richard A. Turner

Caucus Chairman - Edward L. Holloway

Representative LeMaster announced a meeting of the Committee Chairmen for today in Room 104 at 2:30 p.m.

Representative LeMaster moved that the House recess for fifteen minutes.

The Speaker announced Bills and Resolutions would be introduced with the recess to follow.

Introduction of Bills and Resolutions

HJR 1, by Representatives Barrows, Hancock, Moberly,and T. Jones, with a recommendation for passage by the Interim Joint Committee on Agriculture and Natural Resources: A JOINT RESOLUTION directing the Kentucky Commerce Cabinet to study the impact of the closure of the locks and dams on recreational activities and tourism in the Kentucky River Basin, and making an appropriation therefor.

HJR 2, by Representatives Barrows, Hancock, Moberly, and T. Jones, with a recommendation for passage by the Interim Joint Committee on Agriculture and Natural Resources; A JOINT RESOLUTION directing the Natural Resources and Environmental Protection Cabinet to commence negotiations with the U.S. Army Corps of Engineers for the operation and maintenance of the Kentucky River by the Commonwealth of Kentucky and making appropriations therefor.

HJR 3, for the Task Force to Study Taylorsville Lake Project, by Representatives F. Smith and T. Jones: A JOINT RESOLUTION prohibiting the Commerce Cabinet from imposing boat launching ramp fees at Taylorsville Lake.

HJR 4, for the Task Force to Study Taylorsville Lake Project, by Representatives F. Smith and T. Jones: A JOINT RESOLUTION regarding the water quality standards applicable to Taylorsville Lake.

HJR 5, by Representatives Noe and Moberly: A JOINT RESOLUTION directing the Legislative Research Commission to create a select committee to conduct a comprehensive study of merit pay, and related pay plans, for educators.

HJR 6, for the Subcommittee to Study the Problems of Vietnam Veterans in Kentucky, by Representatives Bennett, Turner, Cyrus, and Noland: A JOINT RESOLUTION initiating health services for the families of Vietnam Veterans who may have been exposed to Agent Orange and making an appropriation therefor.

HJR 7, for the Subcommittee to Study the Problems of Vietnam Veterans in Kentucky, by Representatives Hancock, Turner, Van Horn, Cyrus, Noland, Bennett, and Barrows: A JOINT RESOLUTION directing the Kentucky Center for Veterans' Affairs, in cooperation with the Finance and Administration Cabinet, to assist in planning for Vietnam veterans' memorial in Frankfort, and making an appropriation therefor.

HJR 8, by Representative Holbrook: A JOINT RESOLUTION directing the Legislative Research

Commission to establish a Task Force on Rail Passenger Service in Kentucky.

HJR 9, by Representative Morris: A JOINT RESOLUTION directing the division of disaster and emergency services to develop and maintain an earthquake hazards reduction program for the Commonwealth.

HJR 10, by Representatives F. Smith and T. Jones: A JOINT RESOLUTION directing the Secretary of Transportation to conduct a study and develop cost estimates of proposed highway improvements around Taylorsville Lake.

HJR 13, by Representative LeMaster: A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

HB 1, by Representative Long, with a recommendation for passage by the Small Business Task Force: AN ACT relating to state purchasing.

HB 2, by Representative Burnette: AN ACT relating to agriculture and declaring an emergency.

HB 3, by Representatives Long, Cyrus, Holloway, Turner, Patrick, Craddock, and Gray, with a recommendation for passage by the Interim Joint Committee on Judiciary-Civil: AN ACT relating to unemployment insurance.

HB 4, by Representatives Cline and Meyer, with a recommendation for passage by the Interim Joint Committee on Cities: AN ACT relating to finance and revenue of cities.

HB 5, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and Stone: AN ACT relating to tax collection and declaring an emergency.

HB 6, by Representative Stone, with a recommendation for passage by the Interim Joint Committee on Agriculture and Natural Resources: AN ACT relating to oil and gas.

HB 7, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Farrow and Crupper: AN ACT relating to the state local finance officer.

HB 8, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives T. Jones, Long, Arnold, Foster, Petty, Allen, Layman, Hancock, Lile, Farrow, Crupper, Stone and Riner: AN ACT relating to coroners.

HB 9, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Crupper and Farrow: AN ACT relating to county officials.

HB 10, for the Capital Construction and Oversight Committee with a recommendation for passage, by Representative Long: AN ACT relating to capital construction and equipment financing.

HB 11, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Stone and Moore: AN ACT relating to property valuation administrators.

HB 12, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and Moore: AN ACT relating to special districts.

HB 13, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and Lile: AN ACT relating to expense allowances for justices of the peace.

HB 14, by Representative Ford, with a recommendation for passage by the Interim Joint Committee on Counties and Special Districts: AN ACT relating to vehicles used by law enforcement agencies.

HB 15, for the Small Business Task Force with a recommendation for passage, by: Representatives Blandford, Moore, and Craddock: AN ACT relating to property tax.

HB 16, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Farrow and Foster: AN ACT relating to property valuation administrators and

making an appropriation therefor.

HB 17, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Cyrus and Pearman: AN ACT relating to the licensing of motor vehicles.

HB 18, by Representative Farrow, with a recommendation for passage by the Interim Joint Committee on Appropriations and Revenue: AN ACT relating to tax liens.

HB 19, by Representatives Mann and Freibert, with a recommendation for passage by the Interim Joint Committee on Education: AN ACT relating to compulsory attendance.

HB 20, for the Interim Joint Committee on Banking and Insurance with a recommendation for passage, by Representatives Foster and Cline: AN ACT relating to insurance.

HB 21, for the Task Force on Elections and Constitutional Amendments with a recommendation for passage by Representatives F. Smith and Kenton: AN ACT relating to special elections for members of the general assembly.

HB 22, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Crupper and Farrow: AN ACT relating to county financial management and declaring an emergency.

HB 23, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and T. Jones: AN ACT relating to special districts.

HB 24, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and Stone: AN ACT relating to special districts.

HB 25, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Moore and Long: AN ACT relating to county roads.

HB 26, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and T. Jones: AN ACT relating to management of public records.

HB 27, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives T. Jones and Hancock: AN ACT to appropriate funds for a local government records management program.

HB 28, by Representative Freibert: AN ACT proposing to amend the Constitution of Kentucky relative to public officers.

HB 29, by Representative Little: AN ACT relating to Banks.

HB 30, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Cyrus and Little: AN ACT relating to motor vehicles.

HB 31, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Rattliff and Cyrus: AN ACT relating to the Kentucky transportation center and making an appropriation therefor.

HB 32, by Representative Stumbo, with a recommendation for passage by the Interim Joint Committee on Judiciary-Civil: AN ACT relating to the construction of mineral deeds.

HB 33, by Representatives Bendl, Noe, Farrow, Meyer, Long, Pearman, Craddock, McBee and P. Clark, with a recommendation for passage by the Interim Joint Committee on Health and Welfare: AN ACT relating to persons with developmental disabilities.

HB 34, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Arnold and Crupper: AN ACT relating to farmland.

HB 35, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Arnold and Crupper: AN ACT relating to agricultural land.

HB 36, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and T. Jones: AN ACT relating to special districts.

HB 37, for the Interim Joint Committee on Counties and Special Districts with a recommendation for passage, by Representatives Long and T. Jones: AN ACT relating to special districts.

HB 38, for the Interim Joint Committee on Energy with a recommendation for passage, by Representatives Yates and Mann: AN ACT relating to income taxes.

HB 39, by Representative Kidd, with a recommendation for passage by the Interim Joint Committee on Judiciary-Civil: AN ACT relating to guardianship.

HB 40, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representatives P. Richardson, Burnette, Perkins, Hines, Cowan, P. Clarke and Todd: AN ACT relating to formaldehyde.

HB 41, for the Interim Joint Committee on Health and Welfare with a recommendation for passage, by Representatives P. Clark, Riner, Burnette, Freibert, P. Richardson, Hines, Cowan, Ellington, Todd, and Bendl: AN ACT relating to crimes and punishments.

HB 42, by Representative Holbrook: AN ACT relating to motor vehicles.

HB 43, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Maggard, Little, and Cyrus: AN ACT relating to buses.

HB 44, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Cyrus, Little and Maggard: AN ACT relating to motor vehicle transfers.

HB 45, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Cyrus, Little, and Maggard: AN ACT relating to motor vehicle registration.

HB 46, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Hancock and Cline: AN ACT relating to aviation.

HB 47, by Representative Rapier, with a recommendation for passage by the Interim Joint Committee on State Government: AN ACT relating to designation of the Nelson County Fair Tug-of-War Championship Contest as the official Tug-of-War Championship of the Commonwealth.

HB 48, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Rapier and List: AN ACT relating to cities.

HB 49, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Rapier and List: AN ACT relating to local government.

HB 50, by Representative Williams: AN ACT relating to civil action.

HB 51, for the Interim Joint Committee on Agriculture and Natural Resources with a recommendation for passage, by Representatives Burnett, Crupper, Stone, and Worthington: AN ACT relating to agriculture and declaring an emergency.

HB 52, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives F. Smith and Rapier: AN ACT relating to occupational and professional licensing boards.

HB 53, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Bronger and Thomas: AN ACT relating to anatomical gifts.

HB 54, for the Task Force on Elections and Constitutional Amendments with a recommendation for passage, by Representative Cowan: AN ACT relating to campaign finance regulation.

HB 55, by Representative Farrow: AN ACT relating to financial disclosure by banks, savings and loan associations, credit unions, insurance companies, and other financial institutions.

HB 56, for the Interim Joint Committee on Cities with a recommendation for passage, by Representatives Harper and List: AN ACT proposing an amendment to Section 165 of the Constitution of Kentucky relating to officers.

HB 57, for the Interim Joint Committee on Energy with a recommendation for passage, by Representatives Harper, Mann, Clapp, Layman, Petty, and Bronger: AN ACT relating to utility transactions with affiliates.

HB 58, by Representative Pearman: AN ACT relating to insurance.

HB 59, by Representative Pearman: AN ACT granting functions relating to water purification to the human resources cabinet.

HB 60, for the Task Force on Elections and Constitutional Amendments with a recommendation for passage, by Representatives F. Smith and Cowan: AN ACT relating to elections.

HB 61, for the Small Business Task Force with a recommendation for passage, by Representatives Blandford, Moore, Seum, and Fryman: AN ACT relating to the small claims division of the district courts.

HB 62, by Representative Little: AN ACT relating to education.

HB 63, by Representative Little: AN ACT relating to elections of members of boards of education.

HB 64, by Representative Little: AN ACT relating to insurance.

HB 65, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Cyrus and Hancock: AN ACT relating to railroads.

HB 66, for the Interim Joint Committee on Transportation with a recommendation for passage, by Representatives Hancock and Rattliff: AN ACT relating to highways.

HB 67, by Representatives Bruce, Brinkley, Morris, and Lundergan: AN ACT relating to banks.

HB 68, by Representatives Kenton and Cline: AN ACT proposing an amendment to the Kentucky Constitution relating to county government.

HB 69, for the Interim Joint Committee on Judiciary-Criminal with a recommendation for passage, by Representatives Williams and Blevins: AN ACT relating to motor vehicle operator licensing.

HB 70, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Bronger, Petty, and Burch: AN ACT relating to alcoholic beverage control.

HB 71, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Bronger and Petty: AN ACT relating to the advertising of alcoholic beverages.

HB 72, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives McBee and Bronger: AN ACT relating to alcoholic beverage control.

HB 73, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representatives Rapier and Thomas: AN ACT relating to alcoholic beverage control.

HB 74, for the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representative Williams: AN ACT relating to alcoholic beverage control.

HB 75, for the Small Business Task Force with a recommendation for passage, by Representatives Craddock, Crupper, Ford, Blandford, Rattliff, Head, Todd, Seum, and Morris: AN ACT relating to business regulation and making an appropriation therefor.

HB 76, by Representative Pearman: AN ACT relating to education.

HB 77, for the Subcommittee to Study Problems of Vietnam Veterans in Kentucky, by Representatives Bennett and Nolan: AN ACT relating to public school instruction.

HB 78, by Representative Guenthner: AN ACT relating to the University of Kentucky and the University of Louisville's athletic programs.

HB 79, by Representative Freibert: AN ACT relating to the election of members for local boards of education.

HB 80, by Representative Barrows: AN ACT relating to educational improvement.

HB 81, by Representative Noe: AN ACT relating to merit pay for teachers.

HB 82, by Representative Little: AN ACT relating to public utility financial information.

HB 83, by Representative Little: AN ACT relating to judicial sales.

HB 84, by Representative Little: AN ACT relating to the Public Service Commission.

HB 85, by Representative Arnold: AN ACT relating to the small claims division of district courts.

HB 86, for the Program Review and Investigations Committee with a recommendation for passage, by Representatives Moberly, T. Jones, Hancock, and Barrows: AN ACT relating to state personnel.

HB 87, for the Program Review and Investigations Committee with a recommendation for passage, by Representatives Arnold and Barrows: AN ACT relating to instruction for gifted and talented students.

HB 88, for the Program Review and Investigations Committee with a recommendation for passage, by Representatives Hancock and Moberly: AN ACT relating to highways.

HB 89, by Representative Ellington: AN ACT relating to purchasing.

HB 90, by Representatives Morris and Bruce: AN ACT relating to revenue and taxation.

HB 91, by Representative Pearman: AN ACT relating to unemployment insurance.

HB 92, by Representatives Dommermeyer and Little: AN ACT relating to the levy and assessment of property taxes on unmined minerals, making an appropriation and declaring an emergency.

HB 93, by Representative Ellington: AN ACT relating to taxation.

HB 94, by Representative Patrick: AN ACT relating to the rights of employes.

HB 95, by Representative Ellington: AN ACT relating to sales and use tax.

HB 96, by Representatives Stone, Foster, Farrow, Brinkley, Freibert, and Maggard: AN ACT relating to inheritance tax.

HB 97, by Representatives Little and Maggard: AN ACT relating to motor carrier taxes.

HB 98, by Representatives Bendl and Meyer: AN ACT relating to boarding homes.

HB 99, by Representative Yates: AN ACT relating to state purchasing.

HB 100, for the Subcommittee to Study Problems of Vietnam Veterans in Kentucky, by Representatives Bennett, Cyrus, Van Horn, and Nolan: AN ACT relating to payment of a bonus to certain veterans who served during the Vietnam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

HB 101, for the Subcommittee to Study Problems of Vietnam Veterans in Kentucky, by Representatives Bennett and Turner: AN ACT relating to retirement.

HB 102, by Representative Kidd: AN ACT relating to legislators' retirement.

HB 103, by Representative Pearman: AN ACT relating to revenue and taxation.

HB 104, by Representative Pearman: AN ACT relating to inheritance tax.

HB 105, by Representative Pearman: AN ACT relating to individual income tax.

HB 106, for the Special Subcommittee on a Statewide Information System, by Representatives Hancock and Donnermeyer: AN ACT relating to computer crimes and punishments.

HB 107, for the Special Subcommittee on a Statewide Information System, by Representatives Donnermeyer and Hancock: AN ACT relating to the Kentucky Information Systems Commission.

HB 108, for the Special Subcommittee on a Statewide Information System, by Representatives Donnermeyer and Hancock: AN ACT relating to public records.

HB 109, by Representative Little: AN ACT relating to inheritance tax.

HB 110, for the Special Subcommittee on a Statewide Information System, by Representatives Donnermeyer and Hancock: AN ACT relating to the Legislative Research Commission.

HB 111, by Representative Cowan: AN ACT relating to employment skills training and making an appropriation therefor.

HB 112, by Representative Little: AN ACT relating to state and parks and making an appropriation therefor.

HB 113, by Representatives Craddock, Crupper, and Ford: AN ACT relating to business regulation.

HB 114, by Representatives Harper, Donnermeyer, and Crupper: AN ACT relating to descent and distribution.

HB 115, by Representative Noe: AN ACT relating to sales and use taxes.

HB 116, by Representative Bendl: AN ACT relating to medical care.

HB 117, by Representative Burnette: AN ACT relating to a citizen's utility board.

HB 118, by Representative Johnson: AN ACT relating to planning and zoning.

HB 119, for the Subcommittee to Study Procedures for Complaints Against Local Government Police Officers, by Representatives Meyer and Harper: AN ACT relating to police officers.

HB 120, by Representative Long: AN ACT relating to local government.

HB 121, by Representative Blevins: AN ACT relating to the law enforcement foundation program fund.

HB 122, for the Interim Joint Committee on Education with a recommendation for passage, by Representative Richards: AN ACT relating to certification of school employes.

HB 123, for the Task Force to Study Redevelopment of Urban Areas, by Representatives Meyer, Seum, and Kenton: AN ACT relating to neighborhood redevelopment.

HB 124, by Representative Williams: AN ACT relating to motor vehicles.

HB 125, by Representative Morris: AN ACT relating to unemployment compensation.

HB 126, by Representative Kenton: AN ACT relating to the office of state geographer.

HB 127, by Representative Freibert: AN ACT relating to educational improvement.

HB 128, by Representative Freibert: AN ACT relating to conflict of interest by members of private industry councils.

HB 129, by Representative Blevins: AN ACT relating to community access programming.

HB 130, by Representative Van Horn: AN ACT relating to telephone companies.

HB 131, by Representative Van Horn: AN ACT relating to school buses.

HB 132, by Representative Kidd: AN ACT relating to holidays.

HB 133, by Representative Donnermeyer: AN ACT proposing an amendment to the Constitution of Kentucky relating to the state officers.

HB 134, by Representative Donnermeyer: AN ACT relating to determination of the Governor's inability to discharge the duties of his office and declaring an emergency.

HB 135, by Representative Seum: AN ACT relating to the Public Service Commission.

HB 136, by Representative Seum: AN ACT relating to public utilities.

HB 137, by Representative Burnette: AN ACT relating to the public service commission.

HB 138, by Representative Pearman: AN ACT relating to the auditor of public accounts, and containing an appropriation therefor.

HB 139, by Representative Little: AN ACT relating to gas pipelines.

HB 140, by Representative Little: AN ACT relating to telephone utilities.

HB 141, by Representative Little: AN ACT relating to telephone line extensions.

HB 142, by Representative Pearman: AN ACT relating to annexation.

HB 143, by Representative Holbrook: AN ACT relating to railroads.

HB 144, by Representative Holbrook: AN ACT relating to peace officers.

HB 145, by Representative Holbrook: AN ACT relating to cities of the second class.

HB 146, by Representative F. Smith: AN ACT relating to unemployment insurance.

HB 147, by Representative Holbrook: AN ACT relating to fiducial and judicial sales of realty.

HB 148, by Representative Holbrook: AN ACT relating to pensions.

HB 149, by Representative Holbrook: AN ACT relating to pensions.

HB 150, by Representative Holbrook: AN ACT relating to public safety officer pay supplement programs.

HB 151, by Representative Holbrook: AN ACT relating to bidding and contracting for school pictures.

HB 152, by Representatives Holloway and Cyrus: AN ACT relating to workers' compensation insurance.

HB 153, by Representative Freibert: AN ACT relating to election of members for local boards of education.

HB 154, by Representative Bendl: AN ACT relating to medical assistance.

HB 155, by Representative Bendl: AN ACT relating to the long-term care ombudsman program.

HB 156, by Representative Bendl: AN ACT relating to freedom of choice of purchasing prescription drugs.

HB 157, by Representative Bendl: AN ACT relating to health facilities and services.

HB 158, by Representatives Moberly, Barrows, Noe, and Worthington: AN ACT relating to nuclear power facilities.

HB 159, by Representatives Moberly, T. Jones, and Barrows: AN ACT relating to oil and gas.

HB 160, by Representatives Moberly, T. Jones, and Barrows: AN ACT relating to oil and gas.

HB 161, by Representatives Moberly, T. Jones, and Barrows: AN ACT relating to oil and gas.

HB 162, by Representative Meyer: AN ACT relating to neighborhood service areas.

HB 163, by Representatives Noland and Ford: AN ACT relating to jails and declaring an emergency.

HB 164, by Representative Van Horn: AN ACT relating to continuing education for nurses.

HB 165, by the Interim Joint Committee on Business Organizations and Professions with a recommendation for passage, by Representative Burch: AN ACT relating to the equine industry.

HB 166, by Representative F. Smith: AN ACT relating to social workers.

HB 167, by Representative Arnold: AN ACT relating to peace officers.

HB 168, by Representative Curd: AN ACT relating to mobile home transporters.

HB 169, by Representatives Harper and P. Richardson: AN ACT relating to errors and omissions insurance for real estate licensees.

HB 170, by Representative Dunn: AN ACT relating to motorboats.

HB 171, by Representative Burch: AN ACT relating to motor vehicle operators' license.

HB 172, by Representative Van Horn: AN ACT relating to blood donations.

HB 173, by Representative Pearman: AN ACT relating to motor vehicle dealers.

HB 174, by Representative Little: AN ACT relating to resource recovery road hauling permits and potential liability of state employes resulting therefrom.

HB 175, by Representative Blevins: AN ACT relating to the collections of fees for birth certificates to be used in preventing child abuse.

HB 176, by Representative Little: AN ACT relating to limited access facilities.

HB 177, by Representative Blevins: AN ACT relating to alcoholic beverage control.

HB 178, by Representative Dawahare: AN ACT relating to transportation.

HB 179, by Representative Blevins: AN ACT relating to occupations and professions.

HB 180, by Representative McNutt: AN ACT relating to motor carriers.

HB 181, by Representative Burch: AN ACT relating to taxation and revenue.

HB 182, by Representative Arnold: AN ACT relating to jails.

HB 183, by Representative Arnold: AN ACT relating to jails and declaring an emergency.

HB 184, by Representative Arnold: AN ACT relating to shock probation and declaring an emergency.

HB 185, by Representative Arnold: AN ACT relating to jails.

HB 186, by Representative Curd: AN ACT relating to vehicle registration.

HB 187, by Representative Burch: AN ACT relating to theft and related offenses.

HB 188, by Representative Guenthner: AN ACT relating to cruelty to animals.

HB 189, by Representatives Rattliff and Morris: AN ACT relating to crimes and punishments.

HB 190, by Representative Farrow: AN ACT relating to fines and court costs.

HB 191, by Representative Stone: AN ACT relating to emergency vehicles.

HB 192, by Representative Long: AN ACT relating to special districts.

HB 193, by Representative Barrows: AN ACT relating to crimes and punishments.

HB 194, by Representatives Bruce and Morris: AN ACT relating to crimes and punishments.

HB 195, by Representative Long: AN ACT relating to crimes and punishments.

HB 196, by Representative Long: AN ACT relating to rape examinations.

HB 197, by Representative Donnermeyer: AN ACT relating to missing children.

HB 198, by Representative Donnermeyer: AN ACT relating to crimes and punishments.

HB 199, by Representative Donnermeyer: AN ACT relating to crimes and punishments.

HB 200, by Representatives Williams and Dunn: AN ACT relating to crimes and punishments.

HB 201, by Representative Morris: AN ACT relating to crimes and punishments.

HB 202, by Representative Moore: AN ACT relating to circuit courts.

HB 203, by Representatives Burnette and Todd: AN ACT relating to the provision and funding of emergency medical services.

HB 204, by Representative Van Horn: AN ACT relating to the ad valorem taxation of motor vehicles.

HB 205, by Representative Van Horn: AN ACT relating to occupational safety and health of employes.

HB 206, by Representative Van Horn: AN ACT relating to checks.

HB 207, by Representative Cowan: AN ACT relating to net court revenue.

HB 208, by Representative LeMaster: AN ACT relating to tax collection.

HB 209, by Representatives LeMaster and Bennett: AN ACT relating to unemployment insurance.

HB 210, by Representative Mann: AN ACT relating to alcoholic beverage control administration.

HB 211, by Representative Burch: AN ACT relating to unemployment compensation.

HB 212, by Representative Burch: AN ACT relating to horse racing.

HB 213, by Representative Burch: AN ACT relating to horse racing.

HB 214, by Representatives Harper and Mann: AN ACT relating to natural gas.

HB 215, by Representatives Harper and Mann: AN ACT relating to natural gas utility purchasing practices.

HB 216, by Representatives Brinkley, Stone, Cyrus, and Perkins: AN ACT relating to mining.

HB 217, by Representative Mann: AN ACT relating to blood and blood products.

HB 218, by Representative Pearman: AN ACT relating to the small claims division of district court.

HB 219, by Representative Lundergan: AN ACT relating to utility intervention.

HB 220, by Representatives Lundergan and Worthington: AN ACT relating to the building code.

HB 221, by Representative Lundergan: AN ACT relating to the Public Service Commission.

HB 222, by Representative Lundergan: AN ACT relating to Public Service Commissioners.

HB 223, by Representatives Donnermeyer and Petty: AN ACT relating to descent and distribution.

HB 224, by Representative Williams: AN ACT relating to rental agreements.

HB 225, by Representative Williams: AN ACT relating to crimes and punishments.

HB 226, by Representative Williams: AN ACT relating to crimes and punishments.

HB 227, by Representative Guenthner: AN ACT relating to missing children.

HB 228, by Representative Riner: AN ACT relating to crimes and punishments.

HB 229, by Representative Riner: AN ACT relating to pretrial detention.

HB 230, by Representatives P. Richardson, Craddock, Crupper, Rapier, Curd, Hancock, Holbrook, and Dawahare: AN ACT relating to state investments.

HB 231, by Representative Riner: AN ACT relating to crimes and punishments.

HB 232, by Representative Burnette: AN ACT relating to crimes and punishments.

HB 233, by Representative Riner: AN ACT relating to crime victim and witness protection.

HB 234, by Representative Hines: AN ACT relating to public school funding.

HB 235, by Representative Riner: AN ACT relating to crimes, punishments, and related remedies.

HB 236, by Representative Burnette: AN ACT relating to motor vehicles.

HB 237, by Representatives Noe and Moberly: AN ACT relating to student grants and loans from the Kentucky Higher Education Assistance Authority.

HB 238, by Representative Holbrook: AN ACT relating to public utilities.

HB 239, by Representatives Holbrook and Overstreet: AN ACT relating to domestic relations.

HB 240, by Representative Holbrook: AN ACT relating to pensions.

HB 241, by Representative Holbrook: AN ACT relating to pensions.

HB 242, by Representative Holbrook: AN ACT relating to taxes.

HB 243, by Representative Noe: AN ACT relating to social workers.

HB 244, by Representatives F. Smith, Noe, and Stumbo: AN ACT proposing to amend the Constitution of Kentucky relating to property exempt from taxation.

HB 245, by Representative F. Smith: AN ACT relating to annexation.

HCR 14, by Representative Williams: A CONCURRENT RESOLUTION requesting and petitioning the President of the United States and the United States Congress to pursue a mutual and verifiable freeze on and reductions in nuclear weapons by the United States and the Soviet Union.

HCR 15, by Representative Burnett: A CONCURRENT RESOLUTION requesting the U.S. Congress to encourage the exportation of the nation's agricultural products as opposed to military assistance to foreign countries.

Recess

Representative LeMaster moved that the House recess for thirty minutes. Agreed.

The appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 113, HB 75, HB 51, HB 35, HB 34, HB 2, HB 15.**

Appropriations and Revenue: **HB 115, HB 109, HB 105, HB 104, HB 103, HB 100, HB 97, HB 96, HB 95, HB 93, HB 92, HB 90, HB 18.**

Banking and Insurance: **HB 58, HB 55, HB 42, HB 64, HB 29, HB 20.**

Business Organizations and Professions: **HB 179, HB 177, HB 165, HB 173, HB 166, HB 169, HB 44, HB 43, HB 73, HB 129, HB 74, HB 72, HB 53, HB 52, HB 71.**

Cities: **HB 124, HB 145, HB 150, HB 149, HB 148, HB 142, HB 118, HB 119, HB 120, HB 121, HB 123, HB 48, HB 49, HB 4.**

Counties and Special Districts: **HB 167, HB 163, HB 144, HB 37, HB 36, HB 27, HB 26, HB 25, HB 24, HB 23, HB 22, HB 5, HB 7, HB 8, HB 9, HB 11, HB 12, HB 13, HB 14, HB 16.**

Education: **HB 153, HB 151, HB 76, HB 122, HB 127, HB 131, HJR 5, HB 87, HB 81, HB 80, HB 79, HB 78, HB 77, HB 19.**

Energy: **HB 158, HB 139, HB 138, HB 135, HB 136, HB 137, HB 140, HB 141, HB 117, HB 130, HB 84, HB 83, HB 57, HB 38.**

Health and Welfare: **HB 172, HB 175, HB 154, HB 155, HB 156, HB 157, HB 164, HB 116, HB 98, HB 40, HB 41, HB 33.**

Judiciary-Civil: **HB 147, HB 114, HB 85, HB 83, HB 61, HB 39, HB 50, HB 32, HB 3.**

Judiciary-Criminal: **HB 69.**

Labor and Industry: **HB 146, HB 152, HB 124, HB 125, HB 128, HB 94, HB 91, HB 209.**

Natural Resources and Environment: **HB 41, HB 159, HB 161, HJR 3, HJR 4, HB 112, HB 111, HB 59, HJR 2, HJR 1, HB 6.**

State Government: **HB 45, HJR 9, HJR 8, HJR 7, HJR 6, HB 132, HB 133, HB 134, HB 126, HB 110, HB 108, HB 107, HB 106, HB 102, HB 101, HB 99, HB 89, HB 86, HB 68, HB 60, HB 63, HB 56, HB 54, HB 47, HB 28, HB 21, HB 1, HB 10, HB 62.**

Transportation: **HR 10, HB 180, HB 178, HB 176, HB 174, HB 168, HB 170, HB 171, HB 143, HB 88, HB 31, HB 43, HB 44, HB 45, HB 46, HB 66, HB 65, HB 30, HB 17.**

Motions, Petitions and Communications (continued)

Representative Guenthner moved that **HB 78** be withdrawn. Agreed.

Representative LeMaster moved that the Rules be suspended for the purpose of making a motion. Agreed.

Representative LeMaster moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Brown, **HB 96;** Representative Burnette, **HB 96;** Representative Cline, **HB 96;** Representative Cyrus, **HB 96;** Representative Heleringer, **HB 90, HB 96, HB 104, HB 105.**

Announcements

Representative LeMaster announced a meeting of the Legislative Research Commission on adjournment tomorrow in Room 325.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, January 4, 1984.

On the roll the vote was yeas 78-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Head, Hines, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 8-Deskins, Handy, Heleringer, Holbrook, Maggard, Moore, Overstreet, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 4, 1984

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Jim Roberts, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Heleringer.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 3, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 246, by Representatives Morris and Bruce: AN ACT relating to the uniform commercial code.

HB 247, by Representative Little: AN ACT relating to mining.

HB 248, by Representatives Little and Maggard: AN ACT relating to motor vehicle taxes.

HB 249, by Representatives Brown, Cline, Brinkley, Stone, and Cyrus: AN ACT relating to crimes and punishments.

HB 250, by Representatives Freibert, Morris, Endicott, Harper, Ellington, Layman, Lundergan, Robinson, Moore, Overstreet, Holbrook, Noland and Ford: AN ACT relating to individual income tax.

HB 251, by Representative Curd: AN ACT relating to teachers' retirement.

HB 252, by Representative Farrow: AN ACT relating to school buses.

HB 253, by Representative Farrow: AN ACT relating to county financial management.

HB 254, by Representative Meyer: AN ACT relating to limitations of actions to determine paternity.

HB 255, by Representative Kidd: AN ACT relating to the prevention, screening, diagnosis and treatment of lead poisoning.

HB 256, by Representative Bendl: AN ACT relating to dentistry.

HB 257, by Representatives Bendl and Kenton: AN ACT relating to rights of children.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 204, HB 242, HJR 13.**

Banking and Insurance: **HB 206.**

Business Organizations and Professions: **HB 210, HB 212, HB 213.**

Cities: **HB 162, HB 240, HB 241, HB 245.**

Counties and Special Districts: **HB 182, HB 185, HB 192, HB 208.**

Education: **HB 234, HB 237.**

Energy: **HB 82, HB 214, HB 215, HB 219, HB 221, HB 222, HB 238.**

Health and Welfare: **HB 203, HB 217.**

Judiciary-Civil: **HB 202, HB 207, HB 218, HB 223, HB 224, HB 239.**

Judiciary-Criminal: **HB 183, HB 184, HB 187, HB 188, HB 189, HB 190, HB 193, HB 195, HB 197, HB 198, HB 199, HB 200, HB 201, HB 225, HB 226, HB 227, HB 228, HB 229, HB 231, HB 232, HB 233, HB 235, HB 194, HB 196.**

Labor and Industry: **HB 205, HB 211.**

Natural Resources and Environment: **HB 160, HB 216.**

State Government: **HB 220, HB 230, HB 244, HCR 14, HCR 15.**

Transportation: **HB 186, HB 191, HB 236.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 209.**

Energy: **HB 158, HB 139, HB 138, HB 135, HB 136, HB 137, HB 140, HB 141, HB 117, HB 130, HB 84, HB 57, HB 38.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committee. Agreed.

Introduction of Bills and Resolutions

HJR 17, by Representative List: A JOINT RESOLUTION continuing the Kentucky Water Management Task Force.

HCR 18, by Representatives Johnson, Blandford, and Lundergan: A CONCURRENT RESOLUTION directing the Legislative Research Commission, through the Interim Joint Committee on Health and Welfare to study the advisability and feasibility of separation of Mental Health and Mental Retardation delivery services.

HB 258, by Representatives Mann and Donnermeyer: AN ACT relating to workers' compensation.

HB 259, by Representative Burch: AN ACT relating to anatomical gifts.

HB 260, by Representatives Moore and Bronger: AN ACT relating to mining.

HB 261, by Representative Moore: AN ACT relating to electrical inspections.

HB 262, by Representative Lungergan: AN ACT relating to film production companies.

HB 263, by Representative List: AN ACT relating to water well construction practices.

HB 264, by Representative List: AN ACT relating to water resources.

HB 265, by Representative List: AN ACT relating to water plant operators.

HB 266, by Representative List: AN ACT relating to wastewater plant operators.

HB 267, by Representative Mann: AN ACT relating to compensation of crime victims.

HB 268, by Representatives Morris and Richards: AN ACT relating to motor vehicle equipment.

HB 269, by Representative List: AN ACT relating to water resources.

HB 270, by Representative Cline: AN ACT relating to occupations and professions.

HB 271, by Representatives Cyrus, Gray, Stone, and Brinkley: AN ACT relating to an employe's right-to-know about toxic chemicals in the workplace.

HB 272, by Representative Blevins: AN ACT relating to insurance for investigation of child abuse and neglect.

HB 273, by Representatives Johnson, Gray, and Moberly: AN ACT relating to workers' compensation.

HB 274, by Representatives Johnson and Blandford: AN ACT relating to cities.

HB 275, by Representatives R. Jones and Morris: AN ACT relating to retirement.

HB 276, by Representative R. Jones: AN ACT changing the classification of the City of Orchard Grass Hills in Oldham County.

HB 277, by Representative R. Jones: AN ACT relating to revenue and taxation.

HB 278, by Representative R. Jones: AN ACT relating to county personnel and declaring an emergency.

HB 279, by Representative R. Jones: AN ACT relating to school attendance.

HB 280, by Representative R. Jones: AN ACT relating to personal services contracts.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 49, HB 118, HB 120.**

Banking and Insurance: **HB 20, HB 42.**

Counties and Special Districts: **HB 5, HB 8, HB 12, HB 13, HB 36, HB 37.**

Business Organizations and Professions: **HB 73.**

Agriculture and Small Business: **HB 35.**

Motions, Petitions and Communications

Representative LeMaster moved that the House select the Constitutional Pages to serve until December 31, 1984. Agreed.

The following Constitutional Pages were selected: Wesley Gaye Penn, Kimberly Anne Keller, Kimberly Faye Parrish.

Representative Mann moved that **HB 83** be allowed to remain in the Committee on Judicial Civil and be removed from the Committee on Energy. Agreed.

Representative List moved that **HB 124** be allowed to remain in the Committee on Labor and Industry and be removed from the Committee on Cities. Agreed.

Representative Deskins moved that **HB 41** be allowed to remain in the Committee on Health and Welfare and be removed from the Committee on Natural Resources and Environment. Agreed.

Representative Thomas moved that **HB 45** be allowed to remain in the Committee on Transportation and be removed from the Committee on State Government. Agreed.

Representative Thomas moved that **HB 43** and **HB 44** be allowed to remain in the Committee on Transportation and removed from the Committee on Business Organizations and Professions. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Burch, **HB 67;** Representative Caldwell, **HB 1, HB 3;** Representative Crupper, **HB 120;** Representative Donnermeyer, **HB 209;** Representative Holloway, **HB 1;** Representative B. Jones, **HB 1;** Representative T. Jones, **HB 1;** Representative Layman, **HB 61;** Representative Lefevers, **HB 1;** Representative Little, **HB 32,** Representative List, **HB 1;** Representative Meyer, **HB 91;** Representative Moberly, **HB 121;** Representative Petty, **HB 197, HB 198.**

Representative Guenthner moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Guenthner moved the adoption of the following **HR 16:**

HR 16, A RESOLUTION in honor of the Kentucky "Teacher of the Year," Sherleen Sisney.

WHEREAS, Mrs. Sisney presently teaches American history, economics, and political science at Ballard High School in Jefferson County; and

WHEREAS, she believes that each student comes to a learning environment with varying degrees of motivation, skills and ability and that it is her goal as a teacher to develop a sense of self-worth and self-reliance in her students; and

WHEREAS, she believes the greatest reward a teacher can receive is the knowledge of having unleashed on the world an individual who has developed a love for learning; and

WHEREAS , she was 1983's recipient of Phi Delta Kappa's outstanding teacher award; and

WHEREAS, she was recognized for excellence in the teaching of social studies by the Kentucky Council for the Social Studies; and

WHEREAS, she was elected 1983 Jefferson County Teacher of the Year; and

WHEREAS, she was elected 1983 Kentucky Teacher of the Year by the Kentucky Department of Education; and

WHEREAS, she is among the top four nominees for national teacher of the year;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Mrs. Sherleen Sisney is commended for her dedication to the education of the youth of Kentucky.

Section 2. That a copy of this resolution be sent to Mrs. Sherleen Sisney.

HR 16 was adopted by voice vote.

Representative LeMaster moved that the rules be suspended for the purpose of waiving the three-day posting requirement on the following: **HB 5, HB 8, HB 12, HB 13, HB 20, HB 36, HB 37, HB 42, HB 49, HB 73, HB 118, HB 120, HB 209.** Agreed.

The following Constitutional Pages were administered the oath of office by the Speaker: Wesley Gaye Penn, Kimberly Anne Keller, and Kimberly Faye Parrish.

Representative LeMaster moved that the rules be suspended for the purpose of Posting of Bills and Resolutions for Committee Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 184, HB 193, HB 187, HB 200, HB 225.**

Appropriations and Revenue: **HJR 13.**

Announcements

The following meetings were announced:

Business Organizations and Professions: 9:30 a.m., tomorrow.

Education: 9:00 a.m., tomorrow.

Counties and Special Districts: 8:00 a.m., tomorrow.

Banking and Insurance: 10:00 a.m., tomorrow.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, January 5, 1984.

On the roll call the vote was yeas 77-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Hancock, Harper, Head, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 9-Curd, Deskins, Handy, Holbrook, Maggard, Overstreet, Patrick, Perkins, Seum.

The motion to adjourn was adopted.

THURSDAY, JANUARY 5, 1984

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend John C. Kerce, First Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Clarke, Crupper, Nett, and Williams.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 4, 1984 be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 19, by Representative LeMaster: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HB 281, by Representatives Curd, Brown, Brinkley, Bronger, Burnette, Clapp, Crupper, Dunn, Ford, Fryman, Gray, Patrick, Rapier, P. Richardson, Stumbo: AN ACT relating to motor vehicle certificates of title.

HB 282, by Representative LeMaster: AN ACT relating to custodial interference.

HB 283, by Representatives Patrick and Todd: AN ACT relating to taxation and revenue.

HB 284, by Representative Long: AN ACT relating to special districts.

HB 285, by Representative Lundergan: AN ACT relating to legal representation for legislators.

Administrative Regulation 401 KAR 2:180

Administrative Regulation 401 KAR 2:185

Administrative Regulation 401 KAR 2:190

Administrative Regulation 601 KAR 9:072

HB 286, by Representative F. Smith: AN ACT relating to motor vehicles.

HB 287, by Representative Lundegan: AN ACT relating to overtime.

HB 288, by Representatives Harper, Maggard, Allen, Brown, Caldwell, Cline, Crupper, Dawahare, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Heleringer, Holbrook, Holloway, Layman, Lefevers, Lile, Moore, Noland, Patrick, Petty, Robinson, Stone, Todd, Turner, White, Worthington: AN ACT relating to inheritance taxes.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 181, HB 248, HB 250, HB 277.**

Banking and Insurance: **HB 67.**

Business Organizations and Professions: **HB 70, HB 246, HB 270.**

Cities: **HB 274, HB 276.**

Counties and Special Districts: **HB 253, HB 278, HB 261, HB 259.**

Education: **HB 251, HB 252, HB 279.**

Health and Welfare: **HB 255, HB 256, HB 257, HB 272, HB 243, HCR 18.**

Judiciary-Civil: **HB 254, HB 262.**

Judiciary-Criminal: **HB 249, HB 267.**

Labor and Industry: **HB 258, HB 273, HB 271.**

Natural Resources and Environment: **HB 247, HB 265, HB 266, HB 263, HB 264, HB 269, HB 260, HJR 17.**

State Government: **HB 280, HB 275.**

Transportation: **HB 268.**

Posting of Bills and Resolutions for Consideration

The Clerk announce the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 30, HB 44, HB 45, HB 66, HB 176.**

Business Organizations and Professions: **HB 210, HB 177, HB 166, HB 71, HB 169.**

Health and Welfare: **HB 172, HB 164, HB 40, HB 217.**

Report of Committees

The Committee on Cities reported **HB 49** with Committee Substitute attached thereto, **HB 118,** and **HB 120** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 49, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.021 is amended to read as follows:

No county clerk shall issue a registration for renewal or transfer for any motor vehicle on which *any* [~~state, county, school, or special taxing district~~] ad valorem taxes are due and have not been paid.

Section 2. KRS 106.200 is amended to read as follows:

No city of the second, third, fourth, fifth or sixth class which owns a waterworks system shall sell, convey, rent or lease said system without the assent of *a majority* [~~two-thirds (2/3)~~] of *those* [~~the total number of the legal voters of the city,~~] voting at an election held for that purpose after notice of the election has been published pursuant to KRS chapter 424. This section shall not apply to the issuance of revenue bonds provided for under the provisions of this chapter.

Section 3. KRS 45A.385 is amended to read as follows:

The local public agency may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed *seven thousand five hundred dollars*

($7,500) [~~five thousand dollars ($5,000)~~], provided such small purchase procedures are in writing and available to the public.

Section 4. The following KRS sections are repealed:

45A.350 Application.

91A.045 Exception to auditing requirement for city which receives and expends $25,000 or less in fiscal year.

The Committee Substitute to **HB 49** is as follows:

HB 49, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 106.200 is amended to read as follows:

No city of the second, third, fourth, fifth or sixth class which owns a waterworks system shall sell, convey, rent or lease said system without the assent of *a majority* [~~two-thirds (2/3)~~] of *those* [~~the total number of the legal voters of the city,~~] voting at an election held for that purpose after notice of the election has been published pursuant to KRS chapter 424. This section shall not apply to the issuance of revenue bonds provided for under the provisions of this chapter.

Section 2. KRS 45A.385 is amended to read as follows:

The local public agency may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed *seven thousand five hundred dollars ($7,500)* [~~five thousand dollars ($5,000)~~], provided such small purchase procedures are in writing and available to the public.

Section 3. The following KRS sections are repealed:

45A.350 Application.

91A.045 Exception to auditing requirement for city which receives and expends $25,000 or less in fiscal year.

HB 118, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.181 is amended to read as follows:

The legislative body or mayor of the city and the fiscal court or county judge/executive of the county may assign to the planning commission of the planning unit of which it is a member any powers, duties and functions relating to *community development, Kentucky building code enforcement* [~~urban renewal~~] or public housing.

HB 120, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been accepted by the fiscal court of the county as a part of the county road system or private roads, streets, or highways which have been acquired by the county pursuant to KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls;

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of such city.

(3) Nothing in this chapter shall prevent any fiscal court from acquiring land by gift for public purposes.

(4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.210 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be performed upon any street located within the city, provided that the city agrees to pay the costs associated with any such agreement.

The Committee Amendment No. 1 to **HB 120** is as follows:

Amend printed copy of **HB 120** on page 2, line 12, insert between the words "costs" and "associated" the phrase "*if any.*"

The Committee on Counties and Special Districts reported **HB 5, HB 8, HB 12** with Committee Amendment attached thereto, **HB 13, HB 36** with Committee Amendment attached thereto, and **HB 37** with Committee Amendment attached thereto, with the expression that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to tax collection and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.290 is amended to read as follows:

(1) In counties where the state taxes charged to the sheriff for the year are less than $75,000, he shall be allowed by the department of revenue, for collecting such taxes, a commission of ten percent (10%) upon the first $10,000 and four *and one-quarter percent (4.25%)* [~~percent (4%)~~] upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first $5,000 and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than $150,000, he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first $10,000 and four *and one-quarter percent (4.25%)* [~~percent (4%)~~] upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first $5,000 and four and one-quarter per cent (4.25%) upon the residue.

Section 2. Whereas sheriffs in counties with small tax bases are currently receiving a smaller commission for tax collections than sheriffs in counties with large tax bases, an emergency is declared to exist, and this Act shall be retroactive to January 1, 1984.

HB 8, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 72.405 is amended to read as follows:

As used in KRS 72.410 to 72.470, unless the context clearly indicates otherwise:

(1) "Coroner ordered autopsy" means an autopsy ordered by the coroner having jurisdiction and performed by a pathologist pursuant to such authorization in order to ascertain the cause and manner of death in a coroner's case. In the event the pathologist deems it necessary, he may submit the appropriate specimen to a qualified chemist or toxicologist for analysis to assist him in ascertaining the cause of death in a coroner's case.

(2) "Coroner's case" means a case in which the coroner has reasonable cause for believing that the death of a human being within his county was caused by any of the conditions set forth in KRS 72.025.

(3) "Inquest" means an examination ordered by the coroner, or in his absence, ordered by a deputy coroner, into the causes and circumstances of any death which is a coroner's case by a jury of six (6) residents of the county impaneled and selected by the coroner to assist him in ascertaining the cause and manner of death.

(4) "Post-mortem examination" means a physical examination of the body by a medical examiner or by a coroner or deputy coroner who has been certified by the department of justice and may include an autopsy performed by a pathologist or other appropriate scientific tests administered to determine cause of death.

(5) "Certified coroner" or "certified deputy coroner" means a coroner or deputy coroner who has been certified by the department of justice to have successfully completed both the basic training course and annual inservice training course required by KRS 72.415, except that a *coroner or* deputy coroner shall be certified without completion of training courses required by KRS 72.415 if he is a licensed physician. The secretary of justice may waive the requirement for basic training and certify a coroner during the eighteen (18) month period after July 15, 1982 if the advisory commission set forth in KRS 72.225 certifies to the secretary after a thorough review that the experience and knowledge of the specific coroner is such that he is qualified to be a certified coroner without taking the basic training.

HB 12, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.060 is amended to read as follows:

As used in KRS 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes: KRS 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; [~~KRS 66.610 to 66.650;~~] KRS 74.010 to 74.416; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to 80.610; KRS 91A.350 to 91A.390; KRS 96A.010 to 96A.230; KRS 104.450 to 104.680; KRS 107.310 to 107.500; [~~KRS 108.010 to 108.070,~~] 108.080 to 108.180; [~~KRS 108A.010 to 108A.130;~~] KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS 147A.050 to 147A.120; KRS 152.810 to 152.930; KRS 164.605 to 164.675; KRS 173.450 to 173.650, 173.710 to 173.800; [~~KRS 175A.010 to 175A.990;~~] KRS 183.132 to 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.760; [~~KRS 215.080 to 215.390;~~] KRS 216.310 to 216.360; KRS 220.010 to 220.613; [~~KRS 249.510 to 249.631;~~] KRS 262.100 to 262.660, 262.700 to 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 273.405 to 273.468.

Section 2. KRS 65.164 is amended to read as follows:

As used in this Act, the word "district" shall mean any board, commission or special district created pursuant to the following statutes: [~~KRS 66.610 to 66.650;~~] KRS 75.010 to 75.260; KRS 104.450 to 104.680; [~~KRS 108.010 to 108.070;~~] KRS 184.010 to 184.300; KRS 220.010 to 220.613; [~~KRS 249.510 to 249.631;~~] KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 269.100 to 269.270.

Section 3. The following KRS sections are repealed:

66.610 Declaration of necessity for act.
66.613 Neighborhood improvement districts, establishment -- Territory to be included.
66.615 Improvement districts for establishment and maintenance of recreation areas.
66.617 Map of territory in proposed district to show roads -- Notice of hearing on creation of district.
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Section 4. The state local finance officer shall, by October 1, 1984, contact each county clerk and county judge/executive, requesting information on the existence of any of the following special districts in the county: neighborhood improvement districts (KRS 66.610 to 66.650), urban services (KRS 108.010 - 108.070), new community (KRS 108A.010 - 108A.130), county turnpike (KRS Chapter 175A), tuberculosis sanitorium (KRS 215.080 - 215.390), and mosquito control (KRS 249.510 - 249.631). The county clerk or county judge/executive shall, by January 1, 1985, report the existence of any such districts to the state local finance officer.

Section 5. Sections 1, 2 and 3 of this Act shall be effective July 15, 1986.

The Committee Amendment No. 1 to **HB 12** is as follows:

Amend printed copy of **HB 12**, on page 1, line 13, by deleting the backets and strikethrough;

On page 2, line 9, by deleting the bracket and strikethrough;

On page 2, line 10, by deleting th strikethrough and bracket;

On page 3, lines 22 to 26 by deleting lines 22 to 26 in their entirety; and

On page 4, lines 1 to 4 by deleting lines 1 to 4 in their entirety.

HB 13, AN ACT relating to expense allowances for justices of the peace.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.258, Office expense assistance payments to justice of the peace, is repealed.
Section 2. This Act shall be effective on January 1, 1986.

HB 36, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 6 of this Act, unless the context otherwise requires, the word "taxing district" shall mean, and the provisions of Sections 2 to 6 shall apply to, any special district authorized by statute to levy ad valorem taxes within the meaning of Section 157 of the Constitution of Kentucky and governed by the following statutes: KRS 75.010 to 75.260, 107.310 to 107.500, 108.080 to 108.180, 109.115 to 109.190, 173.450 to 173.650, 173.710 to 173.800, 179.700 to 179.990, 212.720 to 212.760, 215.080 to 215.390, 216.310 to 216.360, 249.510 to 249.631, 262.700 to 262.990, 266.010 to 266.990, and 268.010 to 268.990.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided by state law, the sole method of creating a taxing district shall be in accordance with the following:

(1) Persons desiring to form a taxing district shall present a petition to the fiscal court clerk and to each member of the fiscal court, meeting the criteria of Section 3 of this Act, and signed by a number of registered voters equal to or greater than twenty-five percent (25%) of an average of the voters living in the area and voting in the last four (4) general elections. At time of its submission to fiscal court each petition shall be accompanied by a plan of service, showing such of the following as may be germane to the purposes for which the taxing district is being formed:

(a) The statutory authority under which the district is created and under which the taxing district will operate;

(b) Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

(c) A description of the service area including but not limited to the population to be served, a metes and bounds description of the area of the proposed taxing district, the anticipated date of beginning service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

(d) A three (3) year projection of cost versus revenue;

(e) Justification for formation of the taxing district including but not limited to the location of nearby governmental and nongovernmental providers of like services; and

(f) Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other similar analyses which bear on the necessity and means of providing the proposed service.

(2) The fiscal court clerk shall notify all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and any state agencies required by law to be notified of the proposal for the creation of the taxing district.

(3) The fiscal court clerk shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than ninety (90) days following receipt of the petition, charter, and plan of service, and shall, in accordance with the provisions of KRS Chapter 424, publish notice of the time and place of the public hearing and an accurate map of the area or a description in layman's terms reasonably identifying the area.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) The fiscal court may extend the hearing, from time-to-time, for ninety (90) days from the date of the initial hearing and shall render a decision within thirty (30) days of the final adjournment of the hearing.

(6) Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve or disapprove the formation of the taxing district to provide service as described in the plan of service, and to exercise the powers granted by the specific statutes that apply to the taxing district being formed.

(7) The creation of a taxing district shall be of legal effect only upon the adoption of an ordinance, in accordance with the provisions of KRS 67.075 and 67.077, creating such taxing district and compliance with the requirements of KRS 65.005.

(8) A certified copy of the ordinance creating the taxing district shall be filed with the county clerk who shall add the levy to the tax bills of the county. For taxing purposes the effective date of the tax levy shall be January 1 of the year following the certification of the creation of the taxing district.

(9) Nothing in this section shall be construed to enlarge upon or to restrict the powers granted a taxing district under the taxing district's specific authorizing statutes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A valid petition for the creation of a taxing district shall be in substantially the following form:

"The following registered voters of (insert name of county) hereby petition the fiscal court to form a (insert type of taxing district) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the following reasons: (A valid petition shall contain a brief list in layman's terms of the reasons for the creation of the taxing district.)"

(2) The petition shall contain the name and address of each petitioner. Each signature shall be dated as of the day of its execution, the last signature no later than one hundred eighty (180) days from the first signature.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city containing all or any portion of the service area or any state agency with jurisdiction over the taxing district or any citizen living in the proposed area of the taxing district may, within thirty (30) days of the decision of the fiscal court, appeal the decision of the fiscal court on the formation of a district to the circuit court.

(2) The circuit court may affirm the action of the fiscal court, remand the matter to the fiscal court for additional findings or may reverse the action of the fiscal court and order approval or disapproval of the district. The circuit court may reverse the action of the fiscal court only if such decision is found to be arbitrary or capricious.

(3) No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct affecting the decision of the fiscal court.

(4) Where appeals are brought from two (2) or more fiscal courts, the actions shall be merged and venue shall lie in the circuit court of the county where a majority of the taxing district's residents are located.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The fiscal courts of two (2) or more counties may create a taxing district that includes the area of two (2) or more counties by following the procedures of Sections 2 through 6 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The amendment or repeal by this Act of a section authorizing the creation of a taxing district shall not be construed as limiting or changing the power or organization of taxing districts created prior to the effective date of this Act.

Section 7. KRS 75.010 is amended to read as follows:

(1) A [~~petition for the establishment of a~~] fire protection district or a volunteer fire department district *may be created in accordance with the procedures of Section 2 of this Act* [~~signed by at least fifty-one percent (51%) of the voters, as determined by the registration books covering the territory, and living within the boundary of the proposed fire protection district or volunteer fire department district may be filed in the county clerk's office of the county in which the greater part of the territory is located. The petition shall set out the metes and bounds of the proposed fire protection district or volunteer fire department district, the number of voters thereof, and other facts thought proper. Notice of the filing of the petition, the object thereof, and the date set for a hearing thereon shall be given by publication pursuant to KRS Chapter 424, and by notices posted for at least ten (10) days prior to the hearing, one (1) at the courthouse door, and three (3) others at public places within the bounds of the proposed fire protection district or volunteer fire department district. On the day provided for in the notice, the county judge/executive shall, if the proper notice has been given and publication made, and no written objection or remonstrance is interposed, enter an order establishing a fire protection district or a volunteer fire department district in accordance with the prayer of the petition, naming it, and describing the boundary thereof by metes and bounds. Objection or remonstrance may be made to the petition by any inhabitant of the proposed fire protection district or a volunteer fire department district, or any person owning property therein, and if objection or remonstrance is made, the county judge/executive shall hear and determine the same, and enter an order establishing, or refusing to establish the fire protection district or volunteer fire department district as may seem proper. Any aggrieved person may appeal the order in circuit court of the county judge/executive~~].

(2) In no event shall any fire protection district or any volunteer fire department district include within its metes and bounds any territory at that time or thereafter included in any city of this Commonwealth which maintains a "regular fire department," and which city has paid its proportionate share of the indebtedness incurred while such territory was a part of that district.

Section 8. KRS 75.020 is amended to read as follows:

(1) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons

therefor. Notice of the filing of such petition shall be given by publication [~~and posting in the same manner~~] as provided for in KRS *Chapter 424* [~~75.010~~]. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance be filed said clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, he shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in circuit court to contest the decision of the county judge/executive.

(2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents balance owing on purchase price of fire fighting equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the county judge/executive under the provisions of subsection (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.

(3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, may assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district.

Section 9. KRS 107.320 is amended to read as follows:

In counties containing a city of the first or second class, a community improvement district may be created as provided in Section 2 of this Act [~~The county judge/executive of any county containing a first or second class city, may establish a community improvement district in said county~~] for the purpose of erecting buildings and related facilities for any governmental unit, or combination of governmental units, in the county. Any community improvement district so created shall include all of the territory in the county, including the area of incorporated cities, and shall be designated the "County Community Improvement District" (hereinafter called the "district"). The district shall constitute a public body corporate, with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to public nonprofit corporations generally by KRS Chapter 273, except such powers as may be inconsistent with specific provisions of KRS 107.310 to 107.500.

Section 10. KRS 108.100 is amended to read as follows:

(1) A district may be created by the fiscal court as provided in Section 2 of this Act. In the event that the citizens of a city seek to create a district the boundaries of which shall be coterminous with those of the city, such citizens shall petition the city legislative body and the city legislative body shall exercise all rights, powers and duties of the fiscal court as set forth in Section 2 of this Act in determining whether to create the district.

(2)[~~(1) Except as provided in KRS 108.105, districts shall be organized in the following manner:~~

~~(1) Upon the filing of a certified petition of one hundred (100) or more qualified voters in each city or county to be included within the territorial limits of the proposed district or upon the determination of each fiscal court or city legislative body in the proposed district that the establishment of a district is in the best interests of the inhabitants of the county or city, the fiscal court of each county or city legislative body in the proposed district shall adopt a resolution submitting to the qualified voters of the city or county the question as to whether an emergency ambulance service district should be established for the area and a~~] *The* special ad valorem tax *that may be* imposed for the maintenance and operation of the district, *shall* not [~~to~~] exceed ten cents ($.10) on each one hundred dollars ($100) of the assessed valuation of all property in the district. [~~A certified copy of the resolution of the fiscal court or city legislative body shall be filed with the county clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed before the voters.~~

~~(2) The question shall be in substantially the following form: "Are you in favor of establishing an emergency ambulance service district for (insert names of cities or counties) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of~~

~~property assessed for local taxation in the district for the maintenance and operation of the (insert name) emergency ambulance service district?"~~]

(3) *Upon the creation of a district by a fiscal court or city legislative body as provided in Section 2 of this Act, the district* [~~If a majority of those voting in each city or county on the question favor the establishment of an emergency ambulance service district it~~] shall be so established and shall constitute and be a taxing district within the meaning of Section 157 of the Constitution of Kentucky. [~~The cost of the election shall be paid by the fiscal court or city legislative body (as appropriate).~~]

(4) If the ambulance district consists solely of a single city, the ad valorem tax, as authorized by KRS 108.100 to 108.180, shall be collected in the same manner as are the other city ad valorem taxes, and turned over to the board of the ambulance service district. All other special ad valorem taxes authorized by KRS 108.080 to 108.180 shall be collected in the following manner:

(a) The property valuation administrator of the county shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment;

(b) The county clerk shall compute the tax on the regular state and county tax bills;

(c) The special ad valorem tax shall be in addition to all other ad valorem taxes;

(d) The sheriff shall collect the tax, turn it over to the board of the ambulance district, and shall be entitled to a fee of four percent (4%) of the amount of the tax collected by him for such district and all other special ad valorem taxes authorized by KRS 108.080 to 108.180 shall be collected in the same manner as are other county and city ad valorem taxes in each county and city affected and shall be turned over to the board of directors as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes. The sheriff shall be entitled to a fee of one percent (1%) of the amount of the tax collected by him for all special ad valorem taxes except the tax for the ambulance district.

Section 11. KRS 109.115 is amended to read as follows:

(1) A single county, or two (2) or more counties *may create a waste management district in accordance with the procedures of Section 2 of this Act* [~~that elect to join together for the purposes of solid waste management, may, by action of the fiscal court, establish and maintain a waste management district~~]. Waste management districts shall have all powers and authority set forth in KRS 109.041.

(2) The waste management district shall be controlled and managed by a board of directors.

(3) The fiscal court shall determine the composition of the board of directors in one of the following ways:

(a) Appointment of the county judge/executive of every county, or portion of a county, within that district and the mayor of the most populous city in each county. Appointment of a third member from each county in the district so that representation on the board shall be in proportion to the urban-rural population distribution in the county. The county judge/executive and the mayor so appointed may delegate a representative to serve in their stead.

(b) Appointment of members by the county judge/executive and confirmed by the respective fiscal court. In the case of multi-county districts, membership on the board shall be apportioned among the counties in ratio to their population with each county having at least one (1) member. In no case shall the total membership of the board consist of less than three (3) persons nor more than twelve (12) persons. When a county has two (2) or more members on the board, members shall be selected from urban or rural areas in the same proportion as the urban-rural population distribution in the county, except that there shall be at least one (1) member each from a rural and from an urban area.

Section 12. KRS 173.470 is amended to read as follows:

(1) Districts shall be organized in *accordance with the procedures of Section 2 of this Act.* [~~the following manner:~~

~~(1) Upon the filing of a duly certified petition of one hundred (100) or more duly qualified voters in each county to be included within the territorial limits of the proposed district, the fiscal court of each county in the proposed district shall adopt a resolution submitting to the qualified voters of the county the question as to whether a public library district should be established for the area and a special ad valorem tax imposed for the maintenance and operation of the district, not to exceed twenty cents (20) on each one hundred dollars ($100) of the assessed valuation of all property in the district. A certified copy of the order of the fiscal court shall be filed with the county clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed before the voters.~~

~~(2) The question shall be in substantially the following form: "Are you in favor of establishing a public library district for (insert names of counties) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) public library district?"~~]

(2)[~~(3) If a majority of those voting in each county on the question favor the establishment of~~] A public library district *created pursuant to Section 2 of this Act and this section* [~~it shall be so established and~~] shall constitute and be a taxing district within the meaning of section 157 of the constitution of Kentucky. *In no event shall the maximum special ad valorem tax imposed for the maintenance and operation of the district exceed twenty cents (20) on each one hundred dollars ($100) of the assessed valuation of all property in the*

district.

(3)[~~(4)~~] All special ad valorem taxes authorized by KRS 173.450 to 173.650 shall be collected in the same manner as are other county ad valorem taxes in each county affected and shall be turned over to the board as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes.

Section 13. KRS 173.610 is amended to read as follows:

(1) The special ad valorem tax rate for the maintenance and operation of a public library district *created pursuant to* [~~provided for by~~] KRS 173.470 *before the effective date of Sections 2 to 7 of this Act* may be increased or decreased by submission to the voters of the district at a general election and approved by a majority of the votes cast on the issue. The board or any one hundred (100) qualified voters residing within the district may file a duly certified copy of a resolution or petition with the clerk of each county within the district at least forty-five (45) days prior to the election and the clerk shall thereupon cause the question to be prepared to be presented to the voters in substantially the following form: "Are you in favor of increasing (or decreasing) from (insert amount) cents to (insert amount) cents on each one hundred dollars ($100) of the assessed valuation of all property in the (insert name of public library district) public library district the maximum tax which the district can impose for the maintenance and operation of (insert name of district) public library district?"

(2) Any increase provided for in subsection (1) or (3) of this section shall not exceed twenty cents (20) on each one hundred dollars ($100) of the assessed valuation of all property in the district.

(3) The special ad valorem tax rate for the maintenance and operation of a public library district *created pursuant to* [~~provided for by~~] KRS 173.470 *before the effective date of Sections 2 to 7 of this Act* may be increased or decreased by the procedure in KRS 173.790.

Section 14. KRS 173.720 is amended to read as follows:

(1) Districts [~~shall be~~] organized *pursuant to the provisions of this section prior to the effective date of this Act shall be governed by the provisions of KRS 173.710 to 173.800.* [~~in the following manner:~~

~~(1) Upon the filing of a duly certified petition of fifty-one percent (51%) or more of the number of duly qualified voters who voted in the last general election in each county to be included within the territorial limits of the proposed district, the fiscal court of each county in the proposed district shall adopt a resolution ordering the levy of a tax of not more than twenty cents (20) on each one hundred dollars ($100) worth of property assessed for local taxation. Such petition shall be filed with the fiscal court in each county in the proposed district not later than ninety (90) days after the date of the first signature on the petition. A certified copy of the order of the fiscal court shall be filed within thirty (30) days with the county clerk who will add the levy to the next annual tax bill of the county or counties concerned.~~

~~(2) The petition shall be in substantially the following form:~~

~~The following duly qualified voters of (insert name of county or counties) hereby petition the fiscal court of each county concerned to establish a public library district for (insert name of county or counties) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) public library district.~~

~~(3) The petition shall contain the following: The name and address of each petitioner and the date upon which he signed the petition.~~]

(2)[~~(4)~~] All special ad valorem taxes authorized by KRS 173.710 to 173.800 shall be collected in the same manner as are other county ad valorem taxes in each county affected and shall be turned over to the board as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes.

Section 15. KRS 179.705 is amended to read as follows:

(1) A subdivision road district may be created *in accordance with the procedures of Section 2 of this Act* for the purpose of maintaining subdivision roads by the procedures set forth in this section.

(2) *In no event shall the subdivision road district be empowered to levy a special ad valorem tax of more than ten cents (10) on each one hundred dollars ($100) of the assessed valuation of property in the district.* [~~A petition for the establishment of a subdivision road district signed by at least fifty-one percent (51%) of the voters, as determined by the registration books covering the territory, and living within the boundary of the proposed subdivision road district, may be filed in the county clerk's office of the county in which the greater part of the territory is located. The petition shall set out the metes and bounds of the proposed district, the number of voters and residences therein, the proposed property tax, not to exceed ten cents (10) on each one hundred dollars ($100) valuation as assessed for county taxes, which the district will be empowered to levy, and other facts thought proper. Notice of the filing of the petition, the object thereof, and the date set for a hearing thereon shall be given by publication pursuant to KRS Chapter 424, and by notices posted for at least ten (10) days prior to the hearing, one (1) at the courthouse door, and three (3) others at public places within the bounds of the proposed district. On the day provided for in the notice, the county judge/executive shall, if the proper notice has been given and publication made, and no written objection or remonstrance is interposed, enter an order establishing a subdivision road district in accordance~~

~~with the prayer of the petition, naming it, and describing the boundary thereof by metes and bounds. Objection or remonstrance may be made to the petition by any inhabitant of the proposed district, or any person owning property therein; and if objection or remonstrance is made, the county judge/executive shall hear and determine the same, and enter an order establishing or refusing to establish the district as may seem proper. Any aggrieved person may appeal the order in circuit court to contest the decision of the county judge/executive.~~]

Section 16. KRS 173.790 is amended to read as follows:

(1) The special ad valorem tax rate for the maintenance and operation of a public library district *created pursuant to* [~~provided for by~~] KRS 173.710 to 173.800 *before the effective date of Sections 2 to 7 of this Act* shall not be increased or decreased unless a duly certified petition requesting an increase or decrease in the tax rate of a specifically stated amount is signed by 51 percent of the number of duly qualified voters voting at the last general election in each county in the district. Such petition shall be filed with the fiscal court in each county in the district not later than ninety days after the date of the first signature. The fiscal court shall order the court to increase or decrease the ad valorem tax, as stated in the petition.

(a) The petition shall read, "The following duly qualified voters of (insert name of county or counties) hereby petition the fiscal court of each county concerned to increase (or decrease) the special ad valorem tax from (insert exact amount) to (insert exact amount) on each $100 worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) public library district."

(b) The petition shall contain the following: The name and address of each petitioner and the date upon which he signed the petition.

(2) Any increase provided for in subsection (1) of this section shall not exceed twenty cents on each $100 of the assessed valuation of all property in the district.

(3) A petition requesting a decrease in the tax rate will not be considered of any legal effect if, at any time prior to the filing of such a petition for decrease, either:

(a) Contractual obligations have been assumed by pertinent contracting authorities in connection with said subject library, which contractual obligations would be adversely affected by any such decrease; or

(b) If, as of the time of filing of such a petition for decrease, the board of such district shall have arranged for the financing of a library in that district pursuant to a plan of financing involving a lease of that library to the board under which lease the board is not bound for more than one year at a time without exercising an annual option to renew the lease and such lease remains effective and has not been terminated; or

(c) If less than three years have passed since the certified copy of the order of the fiscal court ordering the levy of the tax was filed with the county clerk.

Section 17. KRS 212.720 is amended to read as follows:

Public health taxing districts created pursuant to this section prior to the effective date of this Act [~~Upon request of any county or city-county board of health except in counties containing a city of the first class, the fiscal court of the county shall adopt a resolution submitting to the qualified voters of the county, the question as to whether a public health taxing district shall be established for the county. A certified copy of the order of the fiscal court shall be filed with the county clerk at least forty-five (45) days prior to the next regular election and thereupon the county clerk shall cause the question to be placed before the voters. The question shall be in the following form: "Are you in favor of establishing a public health taxing district for (insert name of county) county which shall have the authority to impose a special ad valorem tax for the maintenance and operation of the (insert name of county or city-county) health department, provided that such special tax shall not exceed (insert amount) cents on each one hundred dollars ($100) of the assessed valuation of all property in the district?" If a majority of those voting on the question favor the establishment of a public health taxing district for the county it shall be so established and~~] shall constitute and be a taxing district within the meaning of section 157 of the constitution of Kentucky. The members of the county or city-county board of health shall, by virtue of their office, constitute and be the governing body of the public health taxing district and shall perform the duties attendant thereto in addition to their duties as members of the county or city-county board of health. The officers of the county or city-county board of health shall be the officers of the public health taxing district.

Section 18. KRS 215.080 is amended to read as follows:

Sanatoria for the treatment of tuberculosis may be erected and maintained in and by districts in this state in the manner prescribed in *Section 2 of this Act and KRS 215.160* [~~KRS 215.090~~] to 215.350. A district for the erection and maintenance of a tuberculosis sanatorium may consist of one (1) county or more than one (1) county.

Section 19. KRS 216.317 is amended to read as follows:

(1) A hospital district may be created in accordance with the procedures of Section 2 of this Act and KRS 216.320.

(2) Upon the creation of a hospital district, as provided in Section 2 of this Act and KRS 216.320, the district [~~Before a hospital district is established or a county participates in an established district, the procedure provided in subsection (1) or the procedure provided in subsection (2) shall be complied with.~~

~~(1) (a) Upon the filing of a duly certified petition of one hundred (100) or more duly qualified voters in a county to be included within the territorial limits of the proposed district, the fiscal court of each county in the proposed district shall adopt a resolution submitting to the qualified voters of the county the question as to whether a hospital district should be established for the medical service area and a special ad valorem tax imposed for the maintenance and operation of the district, not to exceed ten cents (10) on each one hundred dollars ($100) of the assessed valuation of all property in the county. A certified copy of the order of the fiscal court shall be filed with the county clerk at least sixty (60) days prior to the next regular election and thereupon the clerk shall cause the question to be placed before the voters.~~

~~(b) The question shall be in substantially the following form: "Are you in favor of (insert the name of the county) participating in a hospital district composed of (insert the names of the counties) for which (insert the name of the county) shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) hospital district?"~~

~~(c) If a majority of those voting in the county favor the establishment of the district or the participation of the county in an established district, the district shall be established and~~] shall constitute and be a taxing district within the meaning of section 157 of the constitution of Kentucky and the county shall be a participating county in the district. *In no event shall the special ad valorem tax imposed for the maintenance and operation of the district exceed ten cents (10) on each one hundred dollars ($100) of the assessed valuation of all property in the county.*

[~~(d) The participation of each county in a district shall be determined separately and a county may follow the procedure in subsection (1) or (2) without regard to the procedure followed in any other county in the district.~~]

(3)[~~(e)~~] All special ad valorem taxes authorized by KRS 216.310 to 216.360 shall be collected in the same manner as are other county ad valorem taxes in each county affected and shall be turned over to the board as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes.

[~~(2) (a) Upon the filing of a duly certified petition of a majority of the number of duly qualified voters who voted in the last general election in each county to be included within the territorial limits of the proposed district, the fiscal court of a county in the proposed district shall adopt a resolution ordering the levy of a tax of not more than ten cents (10) on each one hundred dollars ($100) worth of property assessed for local taxation. Such petition shall be filed with the fiscal court in each county in the proposed district not later than ninety (90) days after the date of the first signature on the petition. A certified copy of the order of the fiscal court shall be filed within thirty (30) days with the county clerk who will add the levy to the next annual tax bill of the county or counties concerned.~~

~~(b) The petition shall be in substantially the following form:~~

~~The following duly qualified voters of (insert name of county) hereby petition the fiscal court concerned to establish a hospital district for (insert name of county or counties) for which (insert name of county) shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) hospital district.~~

~~(c) The petition shall contain the following: The name and address of each petitioner and the date upon which he signed the petition.~~

~~(d) All special ad valorem taxes authorized by KRS 216.310 to 216.360 shall be collected in the same manner as are other county ad valorem taxes in each county affected and shall be turned over to the board as the governing body of the district. The special ad valorem tax shall be in addition to all other ad valorem taxes.~~]

Section 20. KRS 216.320 is amended to read as follows:

Upon the completion of all procedures necessary for the creation of a taxing district as provided in Section 2 of this Act, the fiscal court shall notify the secretary and [~~The fiscal court of a county in which the election is held or to which a petition is presented shall recommend to the secretary that the district be established and that the county participate in the district. Upon the receipt of the resolution of any fiscal court recommending establishment of a hospital district,~~] the secretary shall establish the district within the medical service area in which that county is located, and shall certify his act to the county judge/executive and county clerk of each county, which is a part of the district, the state local finance officer and to the secretary of state. The district shall then be a taxing district within the meaning of section 157 of the Kentucky constitution for the carrying out of the purposes for which the district was created, and for executing the powers with which it is vested. The county submitting the resolution to the secretary shall be a participating county in the district. The remaining counties in the medical service area may become participating counties upon compliance with the requirements prescribed in KRS 216.317.

Section 21. KRS 249.510 is amended to read as follows:

(1) For the purpose of preserving and promoting the public health and welfare by providing for the control of mosquitoes and other arthropods of public health and welfare significance, the creation of

mosquito control districts is hereby authorized. The boundaries of such district shall be coextensive and coterminous with the boundaries of the county.

(2) Mosquito control districts may be created in accordance with the procedures of Section 2 of this Act. Upon completion of the procedures for the creation of a taxing district, the district shall constitute and be a taxing district within the meaning of Section 157 of the Constitution of Kentucky.

Section 22. KRS 262.700 is amended to read as follows:

Subdistricts of a soil conservation district may be formed in a watershed area, as provided in *Section 2 of this Act and* KRS 262.700 to 262.795, to be known as watershed conservancy districts, for the purpose of developing and executing plans and programs relating to any phase of conservation of water, water usage, flood prevention, flood control, erosion prevention and control of erosion, floodwater and sediment damages. As a subdistrict of a soil conservation district, a watershed conservancy district shall constitute a governmental subdivision of the state and a public body corporate and politic exercising public power.

Section 23. KRS 262.750 is amended to read as follows:

(1) Bonds authorized by KRS 262.745 shall not be issued until proposed by order or resolution of the board of directors, specifying the purpose for which the funds are to be used and the proposed undertaking, the amount of bonds to be issued, the rate of interest they are to bear and the amount of any necessary tax levy authorized in KRS 262.760 to establish a sinking fund for the liquidation of bonds as provided in KRS 262.760. Copy of the order or resolution shall be certified to the board of supervisors.

(2) The board of supervisors shall conduct a hearing on such proposal after notice given pursuant to KRS 262.010(4). If it appears that the proposal is within the scope and purpose of KRS 262.700 to 262.795 and meets all other requirements of the law, the proposal shall be submitted to the landowners of the district by referendum under supervision of the board of supervisors.

(3) Provisions of KRS [~~262.725, 262.730 and~~] 262.740 as to notice, qualifications of voters, absentee voting and manner of holding referendum election in organizing a watershed conservancy district shall apply to the referendum held under this section.

(4) If two-thirds (2/3) of the landowners voting favor the proposal, subject to the provisions of KRS 66.210, such bonds may be issued.

Section 24. KRS 262.780 is amended to read as follows:

(1) Any one or more owners of land may petition the board of supervisors to have their lands added to a watershed conservancy district. Such petition shall define the boundaries of the land desired to be annexed, the number of acres of land involved, and other information pertinent to such proposal. When the boundary described embraces lands of others than the petitioners, the petition shall so state and shall be signed by twenty-five (25) or more of the landowners in the territory described, if fifty (50) or more such owners are involved, or by a majority if less than fifty (50) landowners are involved.

(2) Within thirty (30) days after such petition is filed, the board shall cause due notice to be given, as provided in KRS 262.010 (4), of a hearing on such petition. All interested parties shall have a right to attend such hearing and be heard. The board shall determine whether the lands described in the petition or any portion thereof shall be included in the district. [~~If all the landowners in the territory involved are not petitioners, a referendum shall be held within such territory as provided in KRS 262.725, 262.730 and 262.735, before making a final determination.~~] If it is determined that such land should be added, this fact shall be certified by the board of supervisors to the county clerk in the county or counties involved. After recording, the certification shall be filed with the state soil conservation commission.

Section 25. KRS 266.010 is amended to read as follows:

In counties of less than 200,000 population, when it will be conducive to the public health, convenience or welfare or when it will be of public benefit or utility, *a levee district may be created in accordance with the procedures of Section 2 of this Act* [~~the county judge/executive may establish and aid in the construction of any levee along a river or watercourse within or bounding the county~~]. KRS 266.010 to 266.180 apply only to levees that have or may receive government aid. All levee districts established prior to 1914 and now existing under the laws of Kentucky are vested with all the powers and rights conferred by KRS *266.010* [~~266.020~~] to 266.180 and are not deprived of any rights previously acquired.

Section 26. KRS 266.100 is amended to read as follows:

(1) The county judge/executive shall, *upon the creation of a levee district as provided in Section 2 of this Act and KRS 266.010* [~~when he establishes a levee,~~] and every four (4) years thereafter, appoint five (5) resident landowners of the vicinity of the levee to be known as the board of levee commissioners. The commissioners shall serve for a term of four (4) years and until their successors are appointed. The county judge/executive shall fill any vacancies in the board. All appointments to the board shall be subject to the approval of the fiscal court.

(2) Members of the board of levee commissioners may be removed from office as provided by KRS 65.007.

(3) When a multi-county levee district is established the board shall be appointed by the county judges/executive of the counties involved. Appointments shall be apportioned among the counties in ratio to the portion of the levee to be constructed within each county.

(4) The board of levee commissioners is a body politic, with the status of a corporation, and in its corporate name may do everything authorized by law with reference to public levees.

Section 27. KRS 266.190 is amended to read as follows:

When it will be conducive to the public health, convenience or welfare, or when it will be of public benefit or utility, the county judge/executive of any county may establish and aid in the construction of any levee along a river or watercourse within the county in the manner and subject to the provisions of [~~KRS 266.020 to 266.090,~~] subsection (1) of KRS 266.100, KRS 266.120, subsection (1) of KRS 266.150, and KRS 266.990, with the following exceptions:

(1) In KRS 266.120 persons rendering aid in the repair or protection of the levee shall be paid at the rate of one dollar ($1.00) per day.

(2) In KRS 266.150 the tax collected shall be paid over to the board of levee commissioners.

Section 28. KRS 268.020 is amended to read as follows:

Any county may, *in accordance with the procedures of Section 2 of this Act,* establish, organize, and provide for the operation and maintenance of drainage, levee and reclamation districts.

Section 29. KRS 268.990 is amended to read as follows:

[~~(1) Any clerk who fails to perform any duty required of him by subsection (4) of KRS 268.140 shall be fined not more than one hundred dollars ($100).~~

~~(2)~~] Any person who violates any of the provisions of KRS 268.580 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100).

Section 30. The following KRS sections are repealed:

75.025 County fire protection district -- How organized -- Powers.
215.090 Establishment of sanatorium district for one county by fiscal court -- Appropriation.
215.100 Establishment for several counties by fiscal courts -- Appropriation -- Apportionment of expense.
215.110 Establishment by election.
215.120 Election in one county.
215.130 Election in several counties.
215.140 County may join established district.
215.150 Establishment and maintenance of district upon certification of favorable election.
216.318 Alternative method for establishing hospital district.
216.319 Requirements for district established under KRS 216.318.
249.540 Petition to establish county mosquito control district.
249.551 Tax levy on filing of petition -- Form of petition.
262.707 New district within an established district.
262.710 Petition for formation -- Contents -- Filing.
262.715 Formation of districts in areas involving more than one soil conservation district -- Filing petition -- Board of supervisors.
262.720 Notice -- Parties -- Hearing -- Determination.
262.725 Referendum -- Notice -- Polling officers.
262.730 Ballots -- Eligibility of voters -- Absentee voting.
262.735 Tabulation of votes -- Certification -- Filing.
266.020 Petition to construct levee -- Bond.
266.025 Multi-county levee districts.
266.030 Appointment of commissioners for proposed levee.
266.040 Duties of commissioners -- Report.
266.050 Action if commissioners' report is favorable.
266.060 Proceedings if no exceptions are filed.
266.070 Proceedings if exceptions are filed.
266.080 Appeal from decision establishing or refusing leave.
266.090 Order establishing levee -- Entry -- Conditions.
268.030 Proceedings to establish district -- County that has jurisdiction.
268.040 Petition for improvement -- Bond.
268.060 Board of viewers -- Appointment -- Qualifications -- Oath.
268.070 Examination and report of viewers.
268.080 Notice of fiscal court proceeding.
268.090 Clerk's certificate of notice.
268.130 Hearing by court on exceptions to viewers' report -- Order to establish district.
268.140 Order establishes district -- Owners bound by order -- Fees of county officers -- Duties of clerk.
268.150 Orders referring district to board and continuing proceedings.

The Committee Amendment No. 1 to **HB 36** is as follows:

Amend printed copy of **HB 36** on page 2, line 4, by deleting "*area*" and inserting in lieu thereof "*proposed taxing district*";

On page 6, line 13, by deleting "*a*" and inserting in lieu thereof "*the greatest number*";

On page 6, line 14, by deleting "*majority*"; and

On page 12, line 13, after the comma "," by inserting the following: "*or which lie wholly within the boundaries of said city*".

HB 37, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 6 of this Act, unless the context otherwise requires, the word "district" shall mean, and the provisions of Sections 2 to 6 shall apply to, any special district governed by the following statutes: KRS 66.610 to 66.650, 74.010 to 74.416, 108.010 to 108.070, 108A.010 to 108A.130, 184.010 to 184.300, and 267.010 to 267.990.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided by state law, the sole method of creating a district shall be in accordance with the following:

(1) Persons desiring to form a district shall present a petition to the fiscal court clerk and to each member of the fiscal court, meeting the criteria of Section 3 of this Act, and signed by a number of registered voters equal to or greater than twenty percent (20%) of an average of the voters living in the area and voting in the last four (4) general elections. At time of its submission to fiscal court each petition shall be accompanied by a plan of service, showing such of the following as may be germane to the purposes for which the district is being formed:

(a) The statutory authority under which the district is created and under which the district will operate;

(b) Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

(c) A description of the service area including but not limited to the population to be served, a metes and bounds description of the area of the proposed district, the anticipated date of beginning service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

(d) A three (3) year projection of cost versus revenue;

(e) Justification for formation of the district including but not limited to the location of nearby governmental and nongovernmental providers of like services; and

(f) Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other similar analyses which bear on the necessity and means of providing the proposed service.

(2) The fiscal court clerk shall notify all planning commissions, cities, and area development districts within whose jurisdiction the proposed service area is located and any state agencies required by law to be notified of the proposal for the creation of the district.

(3) The fiscal court clerk shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than ninety (90) days following receipt of the petition, charter, and plan of service, and shall, in accordance with the procedures of KRS Chapter 424, publish notice of the time and place of the public hearing and an accurate map of the area or a description in layman's terms reasonably identifying the area of the proposed district.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection (2) of this section.

(5) The fiscal court may extend the hearing, from time-to-time, for ninety (90) days from the date of the initial hearing and shall render a decision within thirty (30) days of the final adjournment of the hearing.

(6) Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve or disapprove the formation of the district to provide service as described in the plan of service, and to

exercise the powers granted by the specific statutes that apply to the district being formed.

(7) The creation of a district shall be of legal effect only upon the adoption of an ordinance, in accordance with the provisions of KRS 67.075 and 67.077, creating such district and compliance with the requirements of KRS 65.005.

(8) Nothing in this section shall be construed to enlarge upon or to restrict the powers granted a district under the district's specific authorizing statutes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A valid petition for the creation of a district shall be in substantially the following form:

"The following registered voters of (insert name of county) hereby petition the fiscal court of each county concerned to form a (insert type of district) for the following reasons: (A valid petition shall contain a brief list in layman's terms of the reasons for the creation of the district.)"

(2) The petition shall contain the name and address of each petitioner . Each signature shall be dated as of the day of its execution, the last signature no later than one hundred eighty (180) days from the first signature.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city containing all or any portion of the service area or any state agency with jurisdiction over the district or any citizen living in the proposed area of the district may, within thirty (30) days of the decision of the fiscal court, appeal the decision of the fiscal court on the formation of a district to the circuit court.

(2) The circuit court may affirm the action of the fiscal court, remand the matter to the fiscal court for additional findings or may reverse the action of the fiscal court and order approval or disapproval of the district. The circuit court may reverse the action of the fiscal court only if such decision is found to be arbitrary or capricious.

(3) No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct affecting the decision of the fiscal court.

(4) Where appeals are brought from two (2) or more fiscal courts, the actions shall be merged and venue shall lie in the circuit court of the county where a majority of the district's residents are located.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The fiscal courts of two (2) or more counties may create a district that includes the area of two (2) or more counties by following the procedures of Sections 2 through 7 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The amendment or repeal by this Act of a section authorizing the creation of a district shall not be construed as limiting or changing the power or organization of districts created prior to the effective date of this Act.

Section 7. KRS 66.613 is amended to read as follows:

(1) The fiscal court of a county containing a city of the first class may establish a neighborhood improvement district *as provided in Section 2 of this Act* [~~either upon: (a) the recommendation of the county road engineer, or (b) the petition of twenty-five per cent (25%) of the affected freeholders sought to be included in such improvement district. Such recommendation or petition shall describe the territory intended to be included in the improvement district and the conditions and facilities existing in this territory~~]. Any public road or roads, not subject to state or county maintenance, within the county may be included in a proposed neighborhood improvement district. [~~The power to make public improvements within such districts may be exercised by adding or deleting neighborhood improvement districts to the system from time to time as the fiscal court may find necessary.~~]

(2) A neighborhood improvement district may include: (a) any public road or roads not subject to state or county maintenance, including roads in a city of any class, with the written consent of the legislative body of cities of the first, second, third, fourth, fifth, or sixth class, that may function as a principal or convenient connecting way between the public roads of an individual neighborhood and any one or more state highways, county through roads, or similar county or collector or arterial roads in such a manner that specific benefits from its improvement may run to a definable territory, in addition to whatever benefits may accrue to the public generally, or (b) it may include any public road not subject to state or county maintenance, including a cul-de-sac, and abutting property, or (c) it may include any definable neighborhood in which such public improvements as roads, curbing, sidewalks, fire hydrants, utility service pipes, street lights, ancillary drainage facilities, parks, playground and open-space facilities and other public improvements, or any combination of these public improvements, may function in such a manner that specific benefits from such public improvements may run to a definable territory, in addition to whatever benefits may accrue to the public generally. The specifically benefitted territory in a neighborhood improvement district referred to in this section shall not include any territory outside the boundaries of the subject county, but it may include

territory inside a city of any class within the subject county with the written consent of the legislative body of cities of the first, second, third, fourth, fifth, or sixth class, and procedures hereinafter provided by KRS 66.610 to 66.650 for the special assessment of property inside such specially benefitted territory shall be regarded as applying without regard to whether such territory is inside or outside of a city.

Section 8. KRS 66.627 is amended to read as follows:

Upon *the creation of a district pursuant to Section 2 of this Act* [~~adoption of any final resolution described in KRS 66.620~~] the county may proceed to carry out the work described in the resolution in any manner the fiscal court may provide, but all contracts shall be awarded according to the provisions of KRS 178.140; provided, however, that the county may at its option carry out minor work using its own work force.

Section 9. KRS 66.615 is amended to read as follows:

The fiscal court of counties containing a city of the first class may create a neighborhood improvement district in accordance with *Section 2 of this Act and* KRS 66.610 to 66.650 for the acquisition, development, maintenance and operation of parks, playgrounds and recreation centers of public open-space, or any combination of these public improvements. Such improvements and assessments may be made in accordance with the provisions of KRS 66.610 to 66.650. In so doing the fiscal court of a county containing a city of the first class may utilize any of the powers or procedures granted to the legislative bodies of cities or counties by KRS chapter 97. Such facilities shall be administered by the city-county recreation department or other appropriate department provided by law for counties containing a city of the first class or any city therein. Special assessments may be levied against the specially benefitted properties within the improvement district created under the provisions of KRS 66.610 to 66.650 for the purposes authorized by this section. Such special assessments may be levied and collected against the specially benefitted properties in accordance with KRS 66.610 to 66.650. Such facilities must be reviewed by the planning commission.

Section 10. KRS 74.010 is amended to read as follows:

[~~(1)~~] Subject to the *provisions of KRS 74.012 a fiscal court may create a water district in accordance with the procedures of Section 2 of this Act.* [~~requirements herein specified any county judge/executive, upon petition of twenty-five (25) resident freeholders of the proposed district, may establish a water district and appoint water commissioners for the purpose of furnishing a water supply to the citizens of the county. The petition shall describe the territory intended to be included in the district, and shall set out the reasons a water district is needed.~~

~~(2) When the petition is filed the county judge/executive shall give notice of the filing by publication pursuant to KRS chapter 424. Within thirty (30) days after the publication, any resident of the proposed district may file objections, and the county judge/executive shall set the matter for hearing within ten (10) days. If the county judge/executive finds that the establishment of such district is reasonably necessary for the public health, convenience, fire protection, and comfort of the residents, he shall make an order establishing the district, and designating it by name or number. A fee of twenty dollars ($20) shall be allowed the county judge/executive for hearing the petition and entering the order.~~

~~(3) The county judge/executive may in this order strike off any part of the territory that the testimony shows will not be benefited by the creation of the district. If the county judge/executive does not find that the district is necessary, he shall dismiss the petition. Either party may thereupon appeal the order to the circuit court.~~]

Section 11. KRS 74.075 is amended to read as follows:

The board of commissioners of any legally existing water district created under the authority of KRS chapter 74 may have the power to create a fire protection district where no fire protection district exists by *following the procedures of Section 2 of this Act and* [~~filing a petition in the county clerk's office of the county in which the greater part of the territory is located. The petition shall conform with KRS 75.010 except as conflict exists with KRS 74.075 to 74.077; and the petition shall be ruled on as provided for in~~] KRS 75.010.

Section 12. KRS 108.050 is amended to read as follows:

(1) *An urban services district may be created in accordance with the procedures of Section 2 of this Act.* [~~The question of the establishment of an urban services district shall be submitted to the voters of the district if a petition bearing the signatures of the number of registered voters of the area to be embraced within the district equal to at least ten percent (10%) of the vote cast for county judge/executive in that district at the last election is filed with the county judge/executive. After June 18, 1964, the county judge/executive shall not receive or consider a petition for the creation of a district which would contain less than ten (10) square miles of area. The election on creation of the district shall be held at the next regular election if the petition is filed at least ninety (90) days prior to the date for the regular election. The petition shall state that establishment of the district is being sought pursuant to this chapter, shall state the official name by which the district shall be known, and shall prescribe the territory intended to be included in the district.~~

~~(2) If the county judge/executive finds the petition is in proper order and the creation of the district will be in accordance with this chapter, a certified copy of the order of the county judge/executive directing that the question be submitted to a vote shall be filed with the county clerk at least forty-five (45) days prior to~~

~~the next regular election. The county clerk shall give notice of the petition by publication pursuant to KRS chapter 424. The county clerk shall cause the question to be submitted to a vote at the election. The question shall be in the following form: "Are you in favor of establishing .... (name of district) as an urban services district?" If a majority of those voting on the question vote in the affirmative, the district shall be established. The cost of the election shall be paid by the fiscal court.~~]

(2)[~~(3)~~] The governor shall, immediately upon certification that the district has been established, appoint five (5) qualified persons as members of the council.

Section 13. KRS 108A.020 is amended to read as follows:

[~~Organization of~~] A new community district *may be created in accordance with the procedures of Section 2 of this Act.* [~~shall be commenced by petition of a nonprofit membership corporation filed with the county judge/executive of a county in which the territory is located. If the district includes territory in two (2) or more counties, the county judge/executive and county clerk of each county shall perform the functions set forth in this chapter for their respective counties. The petitioning nonprofit corporation shall have the following characteristics:~~

~~(1) All adults who are residents, or become residents, of the territory included in the district shall be eligible for membership in the corporation.~~

~~(2) The income and assets of the corporation shall be used for the development of the area within the district and such other purposes as are incidental to the development.~~]

Section 14. KRS 184.020 is amended to read as follows:

(1) A public road district may be established in *accordance with the procedures of Section 2 of this Act to improve* [~~the following manner: Any person or group of persons owning property abutting upon~~] any public road (which is neither a county road nor a state road) in cities of the third or fourth class or in cities of the sixth class in counties containing cities of the first or second classes or abutting upon any public road (which is neither a county road nor a state road) in an unincorporated area in counties containing cities of the first, second, third or fourth classes, may sponsor the creation of such a road district.

(2) In addition to the information required to be submitted to the fiscal court pursuant to Section 2 of this Act, the sponsors shall [~~first~~] prepare or have prepared for them a map of that section of such public road which they desire to have improved. Such map shall show the boundary lines and terminal points of the road desired to be improved and shall set forth on such map the names of the owners of all property and the number of linear feet owned by them abutting upon such road, the location and size of drainage ditches and sidewalks. The sponsors of said road district shall also have estimated for them by an engineer, who must be a private engineer licensed by the Commonwealth of Kentucky, pursuant to KRS chapter 322, the approximate cost of constructing the improvements desired and reasonable maintenance for the duration of the road district, together with a statement of the approximate cost which shall be borne by each owner of property abutting on the road, determined by the number of linear feet of property owned by each abutting property holder. [~~Said sponsors of said road district shall also prepare a petition and shall attach to said petition the aforesaid maps and statements of cost.~~]

Section 15. KRS 184.040 is amended to read as follows:

[~~(1)~~] When *a* [~~the~~] petition *and plan of service have* [~~has~~] been *submitted to the fiscal court as provided in Section 2 of this Act and KRS 184.020 the fiscal court* [~~signed by the owners of fifty-one per cent (51%) of the property, determined in linear front feet abutting upon and adjacent to the road to be improved, the sponsors of the district may present the petition, together with the attached maps and estimates of cost, to the county judge/executive, who~~] shall turn *these documents* over to the county engineer for his consideration [~~the maps and estimates of cost~~]. The county engineer shall, within ten (10) days from his receipt of such documents from the *fiscal court* [~~county judge/executive~~], examine said documents, examine the road proposed to be improved, or maintained, study the estimates of the cost and type of surface proposed to be used, or study the estimates of the cost and type of the contemplated maintenance and return to the *fiscal court* [~~county judge/executive~~] with recommendations of approval or disapproval the documents theretofore delivered to him. [~~If the county engineer disapproves the plans and estimates of cost submitted to him, he shall set forth his reasons for such disapproval, and the county judge/executive shall return said plans and estimates for revision in accordance with the recommendations of the county engineer. After revision, they shall again be submitted to the county engineer, and if he again disapproves, the court shall nevertheless proceed with a hearing, as hereinafter provided, to determine whether or not said approval should be granted or withheld.~~

~~(2) In the event the county engineer approves the plans for the road and estimates of cost thereof, the county judge/executive shall notify the sponsors thereof and shall select a day not earlier than two (2) weeks thereafter on which a public hearing shall be held to determine whether or not said public road district shall be created and organized. During said two-weeks' period, the county judge/executive shall use such information as is available to him and shall make such investigation as he deems necessary to satisfy himself of the genuineness of the signatures appearing upon the petition and as to the ownership of property of the persons signing said petition. The question of genuineness of signatures and the ownership of property of any person signing the petition may be questioned at the hearing by anyone denying such validity.~~

~~(3) When the county judge/executive has selected a day for the hearing, it shall be the duty of the sponsors to advance sufficient funds to pay for the advertising of the hearing, which advertising shall be by publication pursuant to KRS chapter 424 and by posting printed notices in such number as the county judge/executive may deem necessary or advisable, but in no event less than ten (10), along both sides of the road to be improved, either on telephone poles or on posts erected for that purpose.~~]

Section 16. KRS 184.060 is amended to read as follows:

(1) In the event *that a road district is created pursuant to Section 2 of this Act and KRS 184.020,* [~~of a final decision of the county judge/executive ordering the creation of the road district,~~] the county judge/executive shall [~~enter an order declaring said district organized in the name provided for in KRS 184.030, by which name it shall thereafter be known. The county judge/executive shall thereupon~~] appoint, with the approval of the fiscal court, three (3) persons as members of the road district board of directors, whose duty it shall be to control and manage the affairs of the district. Each director shall be at least twenty-five (25) years of age, shall be an owner of land abutting upon the road to be improved and shall have lived on such land for a period of at least six (6) months prior to his appointment. The members of the first board of directors shall hold their offices, respectively, for two (2), three (3) and four (4) years from the date of their appointment, and thereafter each director shall be appointed for a term of four (4) years. Vacancies resulting from any cause other than expiration of a term of office shall be filled by the county judge/executive and only for the unexpired term.

(2) A member of the board of directors may be removed from office as provided by KRS 65.007.

Section 17. KRS 267.020 is amended to read as follows:

A drainage district may be created in accordance with the procedures of Section 2 of this Act [~~Any county judge/executive may,~~] for the purpose of draining or reclaiming low, swampy or overflowed land in the county, locate, establish and have constructed any levee, ditch, drain or canal, and have constructed, straightened, widened or deepened any ditch, drain, creek, or nonnavigable watercourse, and have reconstructed any ditch, drain, creek, levee or canal heretofore constructed under any drainage law.

Section 18. KRS 178.117 is amended to read as follows:

(1) Any person or corporation, public or private, or any group of such persons or corporations or both residing in or owning property adjacent to any publicly dedicated road in unincorporated territory in a county containing a city of the first class desiring to make any improvements to the publicly dedicated road shall submit to the fiscal court for approval plans and specifications for its improvements at their own expense. Any such request for private improvement shall include all the information required by KRS 184.020 to accompany a request for the creation of a public road district pursuant to that section.

(2) The sponsors of the private improvement of the publicly dedicated road shall present their request, together with the attached maps and estimates of cost, to the fiscal court, who shall turn over to the county engineer for his consideration the maps and estimates of cost. In considering whether to permit the requested improvement, the fiscal court and the county engineer shall follow the same procedures provided for in KRS 184.040 [~~and 184.050,~~] and the same appellate rights provided for in these sections are available to the petitioners. When the county engineer receives from the fiscal court an application for approval of plans or specifications for the private improvement of publicly dedicated roads by some individual or corporation, or a combination thereof, the county engineer shall be authorized and empowered to examine, inspect and investigate, as seems to be advisable, the sufficiency of the improvements which the application seeks to serve the purposes intended, and to establish and make reasonable charges for such services on the basis of a schedule adjusted according to the services required to make such investigation or on any other reasonable method.

(3) When it appears to the county engineer that the completion of the improvement by or on behalf of any such individual or corporation requires inspection and supervision in order to assure the protection of the public safety and the proper subsequent completion of such work for the purposes intended, the county engineer shall include such findings in his recommendation to the fiscal court approving, modifying or disapproving the particular plans and projects, and shall charge such person or corporation for such inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

Section 19. The following KRS sections are repealed:

66.617 Map of territory in proposed district to show roads -- Notice of hearing on creation of district.

66.620 Petition for change in road or improvement before hearing -- Hearing -- Final order creating district, effect.

184.030 What petition to contain.
184.050 Trial of objections -- Appeal.
267.030 Petition for improvement -- Petitioners' bond.
267.040 Board of viewers -- Appointment -- Oath.
267.050 Examination and report of viewers -- Petition dismissed if report unfavorable.
267.060 Proceeding on favorable viewers' report.
267.070 Appeal from decision on exceptions.

267.080 Confirmation of report -- Establishment of district.
267.500 Establishment of separate districts.

The Committee Amendment No. 1 to **HB 37** is as follows:

Amend printed copy of **HB 37** on page 1, line 20, before the word "*area*" by inserting the following "*proposed service*";

On page 5, line 23, by deleting "*a*" and inserting "*the greatest number*" in lieu therefor; and

On page 5, line 24, by deleting "*majority*".

The Committee on Banking and Insurance reported **HB 20** and **HB 42** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

It is an unfair claims settlement practice for any person to commit or perform with such frequency as to indicate a general business practice any of the following:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

SECTION 2. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No fraternal benefit society or insurance agent for a fraternal benefit society shall commit an unfair claims settlement practice as defined by Section 1 of this Act or regulations promulgated thereunder.

HB 42, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.021 is amended to read as follows:

(1) No county clerk shall issue a registration for renewal or transfer for any motor vehicle on which state, county, school, or special taxing district ad valorem taxes are due and have not been paid.

(2) No county clerk shall issue a registration for any motor vehicle which is not insured in compliance with KRS 304.39-080. Each applicant for registration shall present proof of compliance to the county clerk in a manner prescribed in regulations issued by the department of insurance.

Section 2. KRS 304.39-085 is amended to read as follows:

(1) [~~The owner of a motor vehicle registered in this Commonwealth who is required by KRS 304.39-080(5) to provide the security required therein for the maintenance or use of such vehicle shall, as prima facie evidence only that such security is currently in full force and effect, affix to the rear window thereof an identifying sticker or emblem which indicates the month, day and year on which such security will expire unless renewed or replaced by said owner.~~

~~(2) The form, content and location in which the sticker or emblem required by subsection (1) of this section shall be affixed shall be prescribed by the commissioner by regulation. All such stickers or emblems shall be supplied by or under the authority of the department of insurance and shall be serially numbered for the purpose of determining the identity of the insurer of the vehicle and its owner for which it was issued.~~

~~(3) All stickers or emblems issued pursuant to this section shall be the property of the Commonwealth and shall be affixed by the owner to the vehicle covered by the required security only during such time as such security which it represents remains in full force and effect. Every vehicle owner shall immediately remove from such vehicle any sticker or emblem representing security which he knows has been terminated, cancelled, impaired or is otherwise ineffective to serve as security for such vehicle.~~

~~(4) Every vehicle owner meeting the security requirements of this subtitle through the purchase of a contract of insurance shall obtain within thirty (30) days a sticker or emblem evidencing such security from the authorized insurance company (or its authorized agent) with which he has contracted for such security. The commissioner shall furnish or authorize for each insurer sufficient quantities of such stickers or emblems as they may require for each vehicle which such insurer reasonably expects to insure during each annual period for which its policies of insurance are expected to be in force.~~

~~(5) Every vehicle owner meeting the security requirements of this subtitle through becoming a qualified self-insurer or an uninsured obligated government shall obtain a sticker or emblem directly from the commissioner. A sticker or emblem evidencing coverage of a vehicle by a qualified self-insurer shall not expire until that self-insurer ceases to own the vehicle or ceases to be a qualified self-insurer for that vehicle.~~

~~(6) Every authorized insurance company which cancels or refuses to renew any contract of insurance on any vehicle insured by it for any vehicle owner prior to the normal expiration date of the sticker or emblem which it has furnished such owner for such vehicle shall notify such owner the date of which such sticker shall no longer be in full force and effect and should be removed from the vehicle.~~

~~(7)~~] Every authorized insurance company which cancels any contract of insurance required by KRS 304.39-080(5) in accordance with KRS 304.20-040(2) shall provide the *department of vehicle regulation* [~~commissioner of the bureau of state police~~] notice of such cancellation as well as with notice to the insured.

(2)[~~(8)~~] Every authorized insurance company shall provide notice of cancellation to the *department of vehicle regulation* [~~commissioner of the bureau of state police~~] within thirty (30) days following the voluntary cancellation of a policy of insurance required by KRS 304.39-080(5) by a policyholder during the policy period.

[~~(9) Every authorized insurer shall, upon request of the commissioner, furnish to the commissioner with regard to any numbered sticker or emblem furnished by it the name of the owner for whom the security was provided, the vehicle insured by such security and the beginning and ending dates during which the security was in full force and effect.~~

~~(10) Upon complaint by any person filed with the commissioner on a form to be prescribed by him alleging that any sticker or emblem was improperly affixed to any vehicle because the security therefor was not then in full force and effect, the commissioner shall determine the probable validity of said complaint by inquiry pursuant to subsection (9) of this section and shall certify the results of his findings to the complainant and, if the security was not in effect on the date alleged, shall send a copy thereof to the commissioner of the bureau of state police who shall enforce the penalties provided for in KRS 304.99-060.~~

~~(11) The commissioner may by regulation provide for:~~

~~(a) A temporary certificate or binder of insurance coverage which may be displayed in lieu of the sticker or emblem required by this section for a period not to exceed thirty (30) days during which time the owner of such vehicle shall secure the permanent sticker or emblem required by subsection (1) of this section;~~

~~(b) Every motor vehicle dealer or owner of more than five (5) motor vehicles providing the required~~

~~security under an insurance policy that provides automatic coverage for all owned vehicles may be furnished a supply sufficient for his needs of stickers, emblems or other evidence of such security by his insurer. A sticker or emblem evidencing coverage by a motor vehicle dealer shall not expire until that dealer ceases to own the vehicle or ceases to maintain insurance as required by KRS 304.39-080.~~

~~(12) All state, city and county police officers shall issue a citation for violation of this section to the owner or operator of any vehicle which has neither a current sticker or emblem affixed thereto or a temporary certificate or binder of insurance as required by this section.~~]

Section 3. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Driving a vehicle while under the influence of intoxicating liquor or narcotic drugs.

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways.

(d) Any felony in the commission of which a motor vehicle is used.

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months.

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident.

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years.

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304.

(2) If the person convicted of any offense named in subsection (1) is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520 (2), who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

Section 4. KRS 304.99-060 is amended to read as follows:

(1) [~~The owner of any vehicle who fails to have in full force and effect security required by subtitle 39 of KRS Chapter 304 and who does not have any sticker or emblem affixed to vehicle shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and shall have the license plates thereof suspended for a period of thirty (30) days or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.~~

~~(2) The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 and who has affixed to the vehicle a sticker or emblem which he knows was not in full force and effect at that time shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and shall have the license plates of such vehicle suspended for a period of ninety (90) days or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.~~

~~(3)~~] The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 [~~and who has affixed to the vehicle a sticker or emblem which he knows is fraudulent or counterfeit~~] shall*:*

(a) Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000)*;* and [~~shall~~]

(b) Have the license plates of such vehicle suspended for a period of one (1) year or until such time

thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect*; and*

(c) Have his operator's license revoked in accordance with KRS 186.560.

[~~(4) Any person who fraudulently distributes any sticker or emblem or temporary certificate or binder of insurance or who knowingly distributes a counterfeit sticker or emblem or temporary certificate or binder of insurance to any person for any vehicle shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or confined to the county jail for a period not to exceed thirty (30) days or both.~~

~~(5) Any person cited for a violation of KRS 304.39-085 who exhibits to the trial court a written certificate executed by his insurer or its representative or agent that on the date of the citation there was in full force and effect the security required by subtitle 39 of KRS Chapter 304 shall be acquitted and the action shall be dismissed.~~]

The Committee on Business Organizations and Professions reported **HB 73** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 73, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.230 is amended to read as follows:

(1) Licenses to sell distilled spirits and wine by the drink for consumption on the premises may be issued only for premises located within cities of the first, second or third class, or elsewhere in counties containing a city of the first, second or third class if those counties maintain an adequate police force under KRS 70.540 and KRS 70.150 to 70.170.

(2) Notwithstanding any other provision of law, a special license to sell distilled spirits and wine by the drink for consumption on the premises may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held pursuant to KRS 242.127 and 242.129 were in favor of the proposition voted upon provided the city has an adequate police force under KRS 95.710 and KRS 95.740 to 95.787.

(3) Licenses to sell distilled spirits or wine by the package may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.

(4) Notwithstanding subsection (3) *of this section*, the board may, after a field investigation, issue a license to sell distilled spirits and wine by the package at premises not located within any city if:

(a) Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;

(b) The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package *and malt beverages, if such premises are licensed to sell malt beverages at retail* and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed; and

(c) The part of any premises to be licensed under this subsection which is available to the public shall not, except in the case of a drug store, exceed one hundred (100) square feet of floor space and shall not contain any chairs, benches, stools or similar furniture or fixtures.

(5) No retail package or drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

Motions, Petitions, and Communications

Representative Long moved the adoption of the following Legislative Citation No. 1. Agreed.

The House of Representatives congratulates the outstanding Shelbyville American Legion Baseball Team, J. Franklin Bell Post 37 for winning the *State Championship* on August 18, 1983 played at the Clear Creek Park in Shelbyville, Kentucky. This title was captured by hard work and team spirit to defeat the Chief Paduka Post 31, Paducah, Kentucky with a spectacular score of 19-5. We applaud Coach Jim Wiley, Manager Bobby Stratton and the fourteen team members for a successful and outstanding season record of 37-17.

This body salutes and commends you, extending wishes for many more victories throughout the coming season. (Sponsored by Representative Long)

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bennett, **HB 130**; Representative Blevins, **HB 248**; Representative Caldwell, **HB 250**; Representative Fryman, **HB 248**; Representative Heleringer, **HB 250**; Representative Lefevers, **HB 250**; Representative Lile, **HB 28, HB 79, HB 250**; Representative Meyer, **HCR 18**; Representative Patrick, **HB 2, HB 6, HB 11, HB 214, HB 250**; Representative Petty, **HB 258**; Representative Richards, **HB 121**; Representative P. Richardson, **HB 250**; Representative Riner, **HB 250**; Representative Todd, **HB 34, HB 35, HB 250.**

Representative O'Brien moved that **HB 89** be reassigned to the Committee on Labor and Industry. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 289, by Representative Heleringer: AN ACT relating to elections.

HB 290, by Representatives Cyrus, F. Smith, Maggard: AN ACT relating to insurance.

HB 291, by Representative Heleringer: AN ACT relating to telephone solicitations.

HB 292, by Representatives R. Jones, Farrow, P. Richardson, Foster, Turner, B. Smith, Richards: AN ACT relating to cemeteries.

HB 293, by Representatives R. Jones, Farrow, P. Richardson, Foster, Turner, B. Smith, Richards: AN ACT relating to pre-need funeral contracts.

HB 294, by Representative T. Jones: AN ACT relating to county attorneys.

HB 295, by Representative Blevins: AN ACT relating to the Kentucky School for the Blind and making an appropriation therefor.

HB 296, by Representative T. Jones: AN ACT relating to planning and zoning.

HJR 20, by Representative Stumbo: A JOINT RESOLUTION designating Millersburg Military Institute as the military school of the Commonwealth of Kentucky and empowering the Governor to sign its diplomas.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: **HB 214, HB 215, HB 219, HB 221, HB 222, HB 238.**

Motions, Petitions, and Communications (continued)

Representative Perkins moved the adoption of the following Legislative Citation No. 2. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends you for your excellent contribution of notable years of service and coordination of the Glasgow Water Company. Your many years of efficient and fair operation of the company has been very beneficial and greatly appreciated by the Glasgow community. This well deserved honor recognizes your dedication and compliments you highly for your leadership and integrity.

This prestigious body applauds you for your exemplary performance to the Company and to your community of Glasgow, extending wishes of health and happiness to you and your family. (Sponsored by Representative B. Richardson)

Representative LeMaster moved the adoption of the following **HR 19:**

HR 19, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform her that the General Assembly is prepared to receive any message she may care to deliver.

HR 19 was adopted by voice vote.

The Speaker appointed the following members as a Committee to Wait Upon the Governor: Representatives Rapier, Head, and Kidd.

Representative LeMaster moved that when the House recesses it do so until 7:45 p.m. Agreed.

The meeting of the Committee on Labor was announced on recess today in Room 316.

Recess

Representative LeMaster moved that the House recess until 7:45 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address the Joint Session.

The Honorable Steven Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative LeMaster moved that the House and Senate now resolve into Joint Session. Agreed.

The Speaker introduced the Honorable Steven Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, who assumed the Chair and called the Joint Session to order.

Joint Session

Representative LeMaster moved to dispense with a call of the roll. Agreed.

Prayer by Reverend John C. Kerce, First Methodist Church, Frankfort.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort her to the House to address the Joint Session, appeared with the Governor.

The Honorable Steven Beshear introduced the Honorable Martha Layne Collins, Governor of the Commonwealth of Kentucky.

Governor Collins addressed the Joint Session of the General Assembly as follows:

State of the Commonwealth

Martha Layne Collins, Governor

State Capitol - Frankfort, Kentucky

January 5, 1984

We gather here tonight in the most challenging of times for those of us chosen to govern this Commonwealth.

No legislature or governor since the depression has had so little money available to pursue the policies needed to make life better for all Kentuckians.

But, you and I working together over the next few months will nevertheless help make life better in this state. We owe it to our people. We can do it.

Tight money is no excuse for a poverty of ideas as we confront our problems. We will not use it as an excuse to shirk our responsibilities to our people.

I know I can count on your help. We know each other. We are friends. We've worked together in the past, and we'll work together now to lead Kentucky through these hard times toward a brighter tomorrow.

We will squeeze everything we can out of every dollar we spend. We will cut costs where we can. We will find ways to be more productive.

In short, we will manage this government fairly, but with a tight fist.

But that is not enough. Management can carry us only a limited way. Managers marshal resources. Leaders provide direction.

We must always remember *government is more than a business*; government exists to serve the people.

Our people expect us to never forget that.

I know the people of Kentucky. You know the people of your districts. I've seen your affection for them; your respect for them; your eagerness to make their voices heard here in Frankfort.

I've walked Main Street of Whitesburg with the representative from Letcher and stopped in the family drug store across from the courthouse. We heard coal miners talk abut not being able to find work.

The senator from Daviess and I have talked with businessmen in Owensboro who wondered if they could hold out until the economy recovered.

In Bowling Green, the representative from Warren and I have talked with students and professors in the faculty house at Western Kentucky University about their hopes for education.

In Breckinridge, the senator and I have talked to farmers worried about holding on to their farms.

The representative from Campbell and I visited with senior citizens one morning. I remember retired men and women telling me how much trouble they have buying food after paying their utility bills.

Last summer, legislators from Jefferson and I talked to people on the streets in Louisville. Unemployed factory workers wanted to see new industry located in Kentucky.

The representative from Greenup and I met last year in a union hall with labor leaders from around Ashland.

In Fulton the representative and I talked with parents who wondered whether their children were getting the kind of education that would qualify them for a satisfying, well-paying job.

I could go on and on. I've worked with many more of you. What I am saying is that I know your people's hopes and dreams and fears. I also understand your responsibilities to these people.

In a sense you each bring here tonight a special part of Kentucky. You represent people from every hill and hollow, every bend of the river. Every farm town, every quiet neighborhood and every busy street across this state.

Your people expect much of you.

Over the years this legislature has evolved into a full partner in governing Kentucky. I respect this independence. I will work with you. I will always listen to you.

But I count on your ear too. I count on your understanding. I count on your cooperation.

While the people of Pikeville and Paducah share certain concerns, they also have their own particular concerns. So, what the senator from Pike wants for his people around Johns Creek might differ from what the senator from McCracken wants for her people around Monkey's Eyebrow.

When these differences occur, you speak for the people of your district.

My responsibility is much broader. My responsibility is to *all* Kentuckians.

So as I respect your independence and closeness to the people of your districts, I ask that you recognize my duty and responsibility to all of the people.

Our different roles are being defined by the state's highest court. We do not know when the court will decide the case. But, we must make certain this legal test does not become a roadblock to our working together during this session. And whenever the decision is reached, whatever it might be, I trust we will continue the cooperation and openness that I expect will characterize our dealings with one another.

I have been elected governor in a time of change that is transforming our lives. As we enter the information age, we are changing the way we conduct business; the way we manufacture goods; the way we think about work. We are changing the kinds of services we provide; the way we entertain ourselves; the way we communicate; the way government delivers services.

If we are to avoid being left behind by these changes, we must improve our state's schools.

Yet we face this rapidly changing economy --- this need for vastly improved education --- with far less money than we'd like to have.

Just how tight is the money?

That question has not been fully answered. In seeking an answer, I acted over this past weekend to improve the process of estimating revenue so we can all have confidence in the projected figures.

As my staff and I began formulating the executive budget and studying every state program and every budget item, we became convinced that more accurate and credible revenue figures were necessary.

Five times in the last four years, there have been major adjustments in revenue projections, causing five budget reductions, and forcing our agencies to try to find short-term sources of revenue to keep up services.

This meant a lot of frustrating and costly work for the government. But what concerns me most is how it limited flexibility to serve our people. Our agencies in some instances chose to patch budgets together with non-recurring money, making it more difficult to respond as new needs arose.

These five reductions hampered not only state agencies, but also county and city governments, who look to us for some of their revenue estimates. When our estimates are off, they can't plan the most effective way to deliver needed services.

Realizing we must do better, I directed revenue secretary Gary Gillis to establish an advisory group composed of leaders from various segments of Kentucky's economy to lend us their knowledge and skills in arriving at the most accurate estimates possible.

I also invited the participation of the co-chairmen of the Interim Joint Committee on Appropriations and Revenue. I *still* would welcome their involvement.

I said from the beginning that I wanted this process to be a joint legislative and executive effort as we develop a consensus on the amount of money available for the next two years.

When I present my budget later this month with detailed recommendations and program proposals, I want to bring to the general assembly the most accurate revenue estimate possible. I want it to be above reproach. I want it to be one that you and I have confidence in. Then we'll be able to budget more accurately and our agencies will be able to serve Kentuckians more effectively.

Whatever estimate this group comes up with, we already know it won't be encouraging. Money will remain the backdrop for everything we do for the rest of the session.

How do we find ourselves with so little money? It didn't happen quickly. The problem has been building for years. Part of it can be attributed to the state's taking advantage of certain federal programs in the past. Increasingly, the state has had to take over these programs. In some instances, the programs were forced on us. In others, we took them on willingly to keep our people from suffering.

In any case, it cost the state tens of millions of dollars. Shifting of responsibility in Medicaid to the states, for example, will cost Kentucky $14 million dollars this year.

Additionally, the recession put tens of thousands of Kentuckians out of work. Unemployment nearly doubled from 1979 to 1983, going to 11.6 percent statewide and as high as 35 percent in some coal counties. As you know, this unemployment cost the state substantial amounts of revenue.

And part of our financial problem can be traced to the practice of spending non-recurring revenue for recurring expenditures. Several recent administrations were forced to use this short-term solution.

These damaging circumstances have combined to present us with the most challenging times facing any governor or general assembly in recent memory.

You and I will face many hard decisions about the budget. My staff and I face those decisions now as we put together a budget to present to you. We are working with the objective of presenting a balanced budget that will meet the needs of the people within existing revenues.

We owe this kind of discipline to our people. Thousands of coal miners and factory workers are out of jobs. Unemployment remains in double digits. Farmers are losing their farms through bankruptcies. The recession touched nearly everyone and Kentucky's economy still has a long way to go to recovery.

So, these are difficult times to place more burdens on Kentuckians.

But, despite our financial situation, I am optimistic about what we can do this session.

Just as I respect your independence, I have faith in your willingness to work with me to improve the quality of life in this state. I know, for example, that together we will search for ways to provide our youngsters with the opportunity for a better education.

I can assure you that the Collins' administration is searching for every possible dollar to spend on education. I can also assure you that we intend to spend these dollars in ways that actually make a difference in the classroom --- in ways that improve the chances our students will learn what they need to know.

This last point must be central to all of our thinking about education. We must look at what our children are actually learning. We must avoid measuring progress in education as we have in the past, by counting things that are easy to count --- buildings, books, and dollars spent.

We can no longer assume that simply spending money on education improves our schools. Once we could. Years ago our children found too few books in their school libraries; they didn't have the biology and chemistry and physics labs necessary for a fuller understanding of these sciences; they studied in drafty, one-room schools.

In those days it was reasonable to equate higher spending with progress. But we've come a long way in remedying these earlier problems.

Now we often find students in sparkling, well-equipped facilities not learning what they should.

Today, we must focus on achievement. We must spend our limited money on the things that most directly help our children learn. The age dictates it --- because of the skills these young people must have to compete in this economy.

We have to face this sobering fact: whatever we do in this session, no windfall of money will be available to solve our problems in education. For while education is our number one priority, we must also recognize our state's many other needs.

So, to give our young people a better chance for an excellent education, we must test our ingenuity. Certainly, money is one of the elements of excellence in education. But, it is only one. We must find ways of improving our schools that don't take vast sums of money.

We must strengthen our comprehensive testing program. It will be a keystone of our effort to measure achievement. We must ensure that new principals are better prepared to lead their schools toward excellence; we must encourage an atmosphere that is conducive to learning; we must make sure our new teachers have mastered their subjects and the methods of teaching them.

Bringing excellence to our schools certainly requires more than these few items I've listed as examples. But in all the clamor about schools, we must guard against embracing quick fixes or hastily-made plans that do little more than create the appearance that fundamental changes are underway.

We must not squander the opportunity we have today on ill-advised or ineffective measures.

I have never seen such widespread consensus on an issue. Kentuckians want better schools!

School boards, school administrators, teachers, parents, civic clubs and other interested groups are calling for improved education.

How can we best take advantage of the energies, talents and ideas of these groups? With the help of the superintendent of public instruction and the secretary of education, I intend to pull all these groups together so we can focus our efforts.

We will determine precisely what needs to be done to improve achievement in our schools. We must, if we are to keep pace with this changing economy.

The issues of jobs and education can't be separated. If they could in the past, they can't be today --- not at a time when the economy is changing in ways as fundamental as the earlier move from a farm to an industrial economy.

If we don't educate our young people for the information age, then Kentucky will be in danger of becoming an economic backwater. We'll lose jobs to states that do meet the challenge. Kentucky will not prosper. Our people will not live as well as they would like.

Labor must be involved in the state's planning to see that Kentucky education keeps pace with the changes in our economy. That is why I have already elevated labor to cabinet level status. The cabinet will work closely with education and commerce to ensure that our work force is prepared for tomorrow's jobs.

I have also created a tourism cabinet. We cannot wait for better education to bring jobs to Kentuckians out of work today. Tourism remains a vital part of this state's economy, and one of the most promising areas for new jobs.

Tonight I have given you an overview of where the Commonwealth stands as we prepare the budget. I have dwelled on jobs and education and our financial outlook. But I want to assure you that I have not forgotten all the other tough issues before us.

Later this month, I will present my budget address, and the budget I bring you will contain my detailed recommendations for confronting these issues.

The task ahead is not easy.

But I know you agree with me when I say we will not simply throw up our hands in despair. We will not sit back and say we are helpless victims at the mercy of economic events we cannot control.

And --- this point is critical: We will not be content merely to "get by."

Your people did not send you to Frankfort so the Commonwealth could just "get by." Kentuckians did not elect me governor so I could watch our state "get by."

Kentuckians expect more from us. They expect we will make good use of these times no matter how strapped we are for money. They expect that we will not be satisfied with marking time waiting for prosperity to bail us out somewhere down the road. Instead, they expect us to move this state forward. They expect we will act to improve state services and to expand opportunities for our people.

Yes, we have less money than we like. But let's look at what we do have. Over the next two years, we'll devote $5 billion in general fund revenues to state programs. We'll have $3 billion in federal money; $800 million in road fund revenues; and $800 million in agency fund revenues. In all, we'll have over $9 billion to use in serving our people.

It will require of us an uncommon sort of energy and discipline to see that each of these dollars is spent effectively.

It will test me. It will test you. It will test our ability to govern. It will test our ability to lead. I have faith we will succeed.

Representative LeMaster moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Report of Committees

The Committee on Labor reported **HB 209** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.360 is amended to read as follows:

No worker may be paid benefits for any week of unemployment:

(1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the department in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;

(2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or

(3) (a) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in subsection (2) of KRS 341.067 or in an educational institution as defined in subsection (4) of KRS 341.067, begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the

worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or

(b) Which, when based on service other than as defined in *paragraph* [~~subsection (3)~~] (a) of this *subsection* [~~section~~], in an *institution of higher education or an* educational institution, as defined in subsection *(2) or* (4) of KRS 341.067, [~~other than an institution of higher education,~~] begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first *of* such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; *except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph;* or

(c) Which, when based on service in any capacity defined in paragraphs (a) and (b) of this subsection, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess*; or*

(d) Based on service in any capacity defined in paragraph (a) or (b) of this subsection when such service is performed by the worker in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in paragraphs (a), (b), and (c) of this subsection. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions.

(4) *Except that any benefits paid to a worker based on service other than as defined in subsection (3)(a) of this section performed in an institution of higher education as defined in subsection (2) of KRS 341.067 shall be deemed to have been paid as a result of departmental error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subsection (3)(b) of this section.*

(5) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(6)[~~(5)~~] (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the immigration and nationality act).

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

Section 2. KRS 341.270 is amended to read as follows:

(1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3.0%).

(2) No subject employer's contribution rate shall be less than three percent (3.0%), unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date.

(3) For the calendar year 1982 and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of December 31 of the preceding year. If such "trust fund balance":

(a) Equals or exceeds three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule A" of "Table A" shall be in effect.

(b) Equals or exceeds two hundred seventy-five million dollars ($275,000,000) but is less than three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect.

(c) Equals or exceeds two hundred fifty million dollars ($250,000,000) but is less than two hundred seventy-five million dollars ($275,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect.

(d) Equals or exceeds one hundred fifty million dollars ($150,000,000) but is less than two hundred fifty million dollars ($250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect.

(e) Is less than one hundred fifty million dollars ($150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.

(4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to such calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A
Rate Schedule

Employer Reserve Ratio	A	B	C	D	E
8.0% and over	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	0.70%	0.80%	1.00%	1.20%	1.40%
4.6% but under 5.0%	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but under -1.0%	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but under -1.5%	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but under -2.0%	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but under -3.0%	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but under -4.0%	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but under -6.0%	8.50%	8.75%	9.00%	9.25%	9.50%
Less than -8.0%	9.00%	9.25%	9.50%	9.75%	10.00%

(5) [~~Notwithstanding any section of this chapter to the contrary, on or after July 1, 1982, any new~~

~~domestic corporation, or any foreign corporation authorized to do business in this state or any foreign corporation active in conjunction with a domestic corporation in a joint venture, partnership or other legal entity engaged in the contract construction trades shall pay contributions equal to the average rate of contributions paid by all contract construction employers subject to this chapter for the year preceding the year in which such contract construction employer first employed workers in this state; and, such rate of contribution payments shall remain in effect until the employer has employed persons in this state for not less than twelve (12) consecutive calendar quarters ending as of September 30 immediately preceding the computation date. Thereafter, such employer's contribution rate shall be determined in accordance with the provisions of subsection (4) of this section. This section shall not apply to those construction contracts let prior to July 1, 1982.~~

~~(6)~~] As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the department as of such date shall be considered as being in the fund on such date.

(b) "Total wages" means all remuneration for services, as defined in subsections (1) to (5) of KRS 341.030, paid by subject employers.

(c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of September 30 immediately preceding the computation date.

(d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through September 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to such account, such account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(e) "Computation date" is October 31 of each calendar year prior to the effective date of new rates of contributions.

Section 3. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 through KRS 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits were paid shall have been in the employ of such employer for at least thirty (30) days whether or not consecutive.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 through 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 through 341.740 for compensable weeks occurring on or after January 1, 1979 and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to an employer's reserve account under such subsection shall be charged against the pooled account if such worker was in the employ of such employer for less than thirty (30) days whether or not consecutive, or discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account shall, unless terminated as of the computation date (as defined in subsection *(5)* [~~(6)~~] of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's

account as provided in KRS 341.540.

(5) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty days following the mailing of notices of new rates shall, in accordance with regulations established by the secretary, be credited to an employer's reserve account as of the computation date; provided, no voluntary payments shall be used in computing an employer's rate unless such payment is made prior to the expiration of one hundred and twenty days after the beginning of the year for which such rate is effective. The provisions of this subsection shall expire on July 1, 1983.

(6) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance and dissolution of a group reserve account.

Section 4. Whereas, the foregoing changes in the Kentucky unemployment insurance law are necessary to bring the Act into conformity with certain amendments to the federal unemployment tax act and to assure proper credit for Kentucky's contributing employers and continuation of federal administrative fund grants to Kentucky, an emergency is declared to exist and paragraph (b) of subsection (3) of Section 1 of this Act shall become effective retroactive to October 30, 1983, as required by P.L. 97-248, and paragraph (d) of subsection (3) of Section 1 of this Act shall become effective April 1, 1984, as required by P.L. 98-21.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns, it do so until 10:00 a.m., Friday, January 6, 1984. Agreed.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, January 6, 1984.

The House adjourned by voice vote.

FRIDAY, JANUARY 6, 1984

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend David N. Blondell, Crestwood Christian Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Clarke, Meyer and Thomason.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 5, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 297, by Representatives Heleringer and Seum: AN ACT relating to motor vehicle insurance.

HB 298, by Representative Long: AN ACT relating to physical therapy.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 283, HB 288.**

Banking and Insurance: **HB 290, HB 292, HB 293.**

Cities: **HB 296.**

Counties and Special Districts: **HB 284, HB 294.**

Education: **HB 295.**

Judiciary-Criminal: **HB 282.**

Labor and Industry: **HB 287, HB 291.**

State Government: **HB 285, HB 289, HJR 20.**

Transportation: **HB 281, HB 286.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 6, HB 159, HB 161, HB 160, HB 216.**

Agriculture and Small Business: **HB 34, HB 51.**

Counties and Special Districts: **HB 7, HB 9, HB 22, HB 23, HB 24, HB 208, HB 253, HB 278.**

Calendar

HB 5, HB 8, HB 12, HB 13, HB 20, HB 36, HB 37, HB 42, HB 49, HB 73, HB 118, HB 120, and **HB 209** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

The Clerk announced a meeting of the Committee on Rules on recess in Room 316.

Recess

Representative LeMaster moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Report of Committees

The Committee on Rules reported **HB 5, HB 12, HB 13,** and **HB 209** have been posted for passage in Orders of the Day, January 9, 1984.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 1.**

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Brown, **HB 42;** Representative White, **HB 248;** Representative Yates, **HB 57, HB 214, HB 215.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HCR 21, by Representatives Deskins and Stone: A CONCURRENT RESOLUTION urging the Congress to take action that will limit foreign steel imports.

HCR 22, by Representatives Noe, Barrows, Mann, Meyer, Bendl, Gray, Blevins, Perkins, Hines, Head, Kenton, Moberly, B. Smith, Donnermeyer, T. Jones, and Cowan: A CONCURRENT RESOLUTION requesting and petitioning the President of the United States and the United States Congress to pursue a mutual and verifiable freeze on and reductions in nuclear weapons by the United States and the Soviet Union.

HB 299, by Representative Arnold: AN ACT relating to power of attorney.

HB 300, by Representatives Moberly, Kenton, and Long: AN ACT relating to notification of hazardous materials shipments.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 293, HB 292.**

Adjournment

Representative LeMaster moved that the House adjourn until 4:00 p.m., Monday, January 9, 1984.

On the roll call the vote was yeas 75-Allen, Arnold, Barrows, Bendl, Bennett, Bronger, Brown, Burch, Caldwell, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, STone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 9-Blevins, Burnette, Deskins, Guenthner, Handy, Maggard, Overstreet, Perkins, Seum.

The motion to adjourn was adopted.

MONDAY, JANUARY 9, 1984

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members of the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Ellington.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 6, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 301, by Representative Farrow: AN ACT relating to guardianship of disabled persons.

HB 302, by Representatives Clarke and B. Jones: AN ACT relating to the determination of death.

HB 303, by Representative Holbrook: AN ACT relating to liens.

HB 304, by Representative Clarke: AN ACT relating to corporations.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 297.**

Health and Welfare: **HB 298.**

Judiciary-Civil: **HB 299.**

Natural Resources and Environment: **HB 300,** 401 KAR 2:190; 401 KAR 2:185; 401 KAR 2:180.

State Government: **HCR 21, HCR 22.**

Transportation: 601 KAR 9:072.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 67.**

Judiciary-Civil: **HB 3, HB 147.**

Cities: **HB 145, HB 274, HB 276.**

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended to waive the posting requirement on the following: **HB 3** and **HB 147**. Agreed.

The following meetings were announced:

Committee on Rules: Room 316, on adjournment.

Labor and Industry: No meeting at 8:00 tomorrow.

State Government: Wednesday, 10:00 a.m.

Counties and Special Districts: Tomorrow, 8:00 a.m.

Cities: Wednesday, 8:00 a.m.

Appropriations and Revenue: Thursday, 10:00 a.m., Room 109.

Natural Resources and Environment: 12 noon, Thursday, Room 104.

Orders of the Day

HB 209, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 209** be passed.

On the roll call the vote was yeas 83-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Yates. Nays 0.

HB 209 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 209** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 13 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 13** be passed.

On the roll call the vote was yeas 71-Arnold, Barrows, Bendl, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Endicott, Farrow, Ford, Foster, Freibert, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Long, Maggard, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Rapier, Rattliff, Richards, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, White, Williams, Yates. Nays 16-Allen, Bennett, Brinkley, Dunn, Fryman, Guenthner, R. Jones, Layman, Little, Mann, Patrick, Priddy, B. Richardson, P. Richardson, Turner, Van Horn.

HB 13 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 13** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HR 23, by Representative Hines: A RESOLUTION extending a welcome home to Navy Lt. Robert Goodman.

HB 305, by Representative Burch: AN ACT relating to excise taxes.

HB 306, by Representatives Meyer and Bendl: AN ACT relating to conflicts of interest.

HB 307, by Representatives Meyer, Cowan, Barrows, Bendl, Blevins, T. Jones, Kenton, Lundergan, Mann, Moberly, Noe, Perkins, Priddy, B. Richardson, Stumbo, Thomason: AN ACT relating to conservation easements.

HB 308, by Representatives Moberly, Noe, T. Jones, and Barrows: AN ACT relating to radioactive waste.

HB 309, by Representatives Moberly, Kenton, Hines, Cowan, Mann, Noe: AN ACT relating to class sizes in elementary and secondary education.

HB 310, by Representative Arnold: AN ACT relating to jails.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, January 10, 1984.

On the roll call the vote was yeas 69-Allen, Arnold, Barrows, Bendl, Blandford, Brinkley, Brown, Bruce, Burch, Caldwell, Clapp, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Hancock, Harper, Head, Hines, Holloway, Johnson, T. Jones, Kidd, Layman Lefevers, LeMaster, List, Little, Long, McBee, McNutt, Meyer, Moore, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, Williams. Nays 11-Blevins, Ford, Guenthner, Handy, Heleringer, Holbrook, Kenton, Lile, Maggard, Overstreet, Perkins.

The motion to adjourn was adopted.

TUESDAY, JANUARY 10, 1984

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Donald Durham, Methodist Home of Kentucky, Versailles, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Brown, Dawahare and Worthington.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 9, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 24, by Representative Heleringer: A RESOLUTION relating to the Kentucky Public Employes Deferred Compensation System and directing an investigation of the management of funds deducted for investment thereby.

HB 311, by Representatives Brinkley, Perkins, Bruce, Stumbo, F. Smith, Clapp, Rattliff, Van Horn, Dunn, Blandford, Seum, Stone, Arnold, and Overstreet: AN ACT relating to local ordinances and regulations.

HB 312, by Representative Farrow: AN ACT relating to collection of taxes and fees by county officials.

HB 313, by Representative Farrow: AN ACT relating to county offices.

HB 314, by Representatives Nett, Williams, and Hines: AN ACT relating to metropolitan sewer districts.

HB 315, by Representatives Overstreet, Stone, Blevins, Brinkley, Bronger, Cowan, Cyrus, Deskins, Ford, Freibert, Fryman, Gray, Harper, Holbrook, Layman, Maggard, Petty, Richards, Stumbo, Williams, and Yates: AN ACT relating to wills.

HB 316, by Representatives Holbrook and Van Horn: AN ACT relating to limited partnerships.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Business Organizations and Professions: **HB 305.**

Counties and Special Districts: **HB 310.**

Education: **HB 309.**

Health and Welfare: **HB 301, HB 306.**

Judiciary-Civil: **HB 302, HB 303, HB 304, HB 307.**

Natural Resources and Environment: **HB 308.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 19, HB 87, HB 122, HB 80, HB 81.**

Report of Committees

The Committee on Rules reported **HB 73**, and **HB 120** have been posted for passage in Orders of the Day, January 11, 1984.

The Committee on Appropriations and Revenue reported **HJR 13** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 13, A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

WHEREAS, additional personnel are necessary to expedite properly the business of the Senate and the House of Representatives; and

WHEREAS, the present appropriation of the Legislative Research Commission is insufficient to provide adequate clerical services to the General Assembly;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That there be appropriated from the General Expenditure Fund to the Legislative Research Commission the sum of ten thousand eight hundred dollars ($10,800) per calendar day during all regular, special and organizational sessions of the General Assembly. This appropriation shall be available for expenditure during the 1983-84 and 1984-85 fiscal years.

Whereas, the General Assembly is now in session and it is necessary that these funds be available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to such personnel from and including January 3, 1984.

The Committee on Counties and Special Districts reported **HB 7, HB 9, HB 22** with Committee Amendments attached thereto, and **HB 278** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to the state local finance officer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.020 is amended to read as follows:

(1) The *state local finance officer* [~~finance and administration cabinet~~] shall exercise all administrative functions of the state as provided in the county debt act, KRS 66.280 to 66.390; as regards county and local government budgets as provided in KRS 68.210 to 68.360; and as to local government bonds as provided in KRS 66.045.

(2) The *state local finance officer* [~~finance and administration cabinet~~] shall have the following powers and duties:

(a) To require such reports from local governments as will enable *him* [~~it~~] adequately to provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which shall be kept open for public inspection at the state local finance offices.

(b) To *conduct training programs to instruct county and local government officials respecting their duties and responsibilities in the collection, expenditure and management of public monies subject to their control and jurisdiction* [~~encourage, conduct, or participate in training courses in debt and general fiscal~~

~~management and procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists~~].

(c) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids.

(d) To request such assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the state local finance officer to carry out his duties under this section.

(e) *To* [~~At its discretion, to~~] compile and publish annually a report *which shall* [~~. Such report may~~] include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.

(3) The *state local finance officer* [~~finance and administration cabinet~~] shall coordinate for the governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to general revenue sharing for local government.

(4) The *state local finance officer* [~~finance and administration cabinet~~] shall provide technical assistance and information to units of local government, including but not limited to:

(a) Fiscal management;

(b) Purchases and contracts.

HB 9, AN ACT relating to county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.025 is amended to read as follows:

(1) Except as provided in subsection (7) of this section, the department for local government *with the advice and approval of the state local finance officer* annually shall conduct a program to instruct county clerks, sheriffs, jailers, and county treasurers respecting their duties and responsibilities in the collection and expenditure of public monies, subject to their control and jurisdiction.

(2) The department *with the advice and approval of the state local finance officer* shall establish the content and publish instructional materials essential to implementing this program. Subsequent to every regular and extraordinary session of the general assembly, the department *with the state local finance officer* shall review and revise, if necessary, the program when it is found not to be consistent with state law.

(3) The department may assess a charge to any person requesting copies of instructional materials published pursuant to this section to cover actual costs of printing and handling these materials, except that no county official shall be charged for instructional materials provided for his use. Funds accruing from the sale of instructional materials shall be paid into the state treasury, and the state treasurer shall pay these funds into an account of the department to defray the costs of printing and handling these materials.

(4) The commissioner of the department *with the advice and approval of the state local finance officer* may prescribe completion standards for this program, and may, subject to subsection (6) of this section, establish the number, type and sequence of instructional sessions to be conducted by the department; but the commissioner of the department shall not require the attendance of any county official, nor shall he prescribe any requirement or standard that restricts or impairs a county official or elected candidate in the lawful pursuit or conduct of the office to which he is elected.

(5) The department shall notify in advance each county clerk, sheriff, jailer, and county treasurer respecting instructional session pertinent to his office. Notification shall be by mail, and it shall be posted no later than twenty-one (21) days prior to the instructional session. At a minimum, the notice shall give the date, time, place and title of the instruction session.

(6) The department shall conduct this program by providing a one (1) day session at various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year. Except as provided in subsection (7) of this section, the department may commence instruction anytime during a calendar year.

(7) The department shall not conduct a program pursuant to this section during any calendar year when a general election is held for every constitutional county office. The department, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.

(8) Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.

(9) In fulfilling the requirements of this section, the department shall confer with and coordinate its duties and responsibilities with the department of finance, the department of revenue and the auditor of public accounts. The department shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in

subsection (1) of this section, and the Kentucky association of counties, respecting the implementation of this section.

HB 22, AN ACT relating to county financial management and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.020 is amended to read as follows:

(1) The county treasurer shall receive and receipt for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall disburse such money in such manner and for such purpose as may be authorized by appropriate authority of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor. All warrants for the payment of funds from the county treasury shall be co-signed by the county treasurer and the county judge/executive.

(2) He may, and when directed by the fiscal court shall, invest the funds of the county pursuant to KRS 66.480.

(3) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against anyone having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(4) He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by *the* [~~any~~] uniform system of accounting prescribed by the *state local finance officer* [~~finance and administration cabinet~~].

(5) The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall, unless his immediate predecessor has done so, make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge/executive shall call a special meeting which shall proceed in the manner it deems proper to settle the accounts of the county treasurer.

Section 2. KRS 68.210 is amended to read as follows:

The administration of the county uniform budget system shall be under the supervision of the state local finance officer who may inspect and shall supervise the administration of accounts and financial operations and shall prescribe and shall install, by *July 1, 1984,* [~~January 1975,~~] a system of uniform accounts for all counties and county officials. *Subsequent to every regular and extraordinary session of the general assembly he shall review the county uniform budget system to determine if it is consistent with state law and generally accepted accounting practices. If he finds the system to be inconsistent with state law or to contain obsolete accounting practices, he shall revise it accordingly.* He may require all officials of all local governments and local taxing districts to submit such [~~annual~~] financial reports as he may deem proper. He may investigate, examine, and supervise the accounts and operations of all local governments and local government officers. This section does not impose upon or transfer to the state local finance officer any post audit functions.

Section 3. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the fiscal court by May 24 of each year.

(2) The fiscal court, at a meeting or meetings held not later than June 1 of each year, shall make a detailed investigation of each separate activity of the county for which the county judge/executive proposes that county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units *as prescribed by the state local finance officer*, including *but not limited to*:

(a) General expenses of county government.
(b) Protection to persons and property.
(c) General health and sanitation.
(d) *Social services* [~~Highways and bridges~~].
(e) *Recreation and culture* [~~Charities, hospitals, infirmaries and corrections~~].

(f) *Transportation facilities and services* [~~Recreational~~].
(g) *Debt service* [~~New property and improvements~~].
(h) *Administration and miscellaneous* [~~Interest and debt payments~~].
[~~(i)~~ ~~Miscellaneous and contingent.~~]

(3) The county budget shall have a fund known as the "sinking fund principal account" and a fund known as the "sinking fund interest account." There shall be allocated annually to the sinking fund principal account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) The county budget shall include such budget units as may be required by the activities of the county. When necessary, the county budget may be subdivided into separate budget funds so that the cost of each class of expenditures can be ascertained at any time and regulated according to the financial condition and needs of the county.

(5) The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) The fiscal court shall comment upon the proposed budget, and may amend it according to its desires prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250.

Section 4. KRS 68.990 is amended to read as follows:

(1) Any outgoing county treasurer who fails for ten (10) days to comply with any of the provisions of KRS 68.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(2) The fiscal court and each member thereof that fails or refuses to comply with any of the provisions of KRS 68.080 shall be fined fifty dollars ($50) for each offense.

(3) Any county officer or member of a fiscal court who violates any of the provisions of KRS 68.110(3) shall be fined not less than one hundred (100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both.

(4) The fiscal court and each member thereof that fails or refuses to implement a system of uniform accounts as prescribed by the *state local finance officer* [~~department of finance~~] pursuant to KRS 68.210 shall be fined one hundred dollars ($100) for each offense.

(5) Any local government official who fails to submit *a* [~~an annual~~] financial report requested by the *state local finance officer* [~~department of finance~~] pursuant to KRS 68.210 shall *fifteen (15) days after written notice of non-compliance by the state local finance officer* be fined *two* [~~one~~] hundred *fifty* dollars *($250) per day until compliance* [~~($100) for each offense~~].

(6) Any county or state officer who knowingly violates any of the provisions of KRS 68.250(4), 68.270, 68.280, 68.310, or 68.320 shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his office declared vacant, and may also be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both.

(7) Any county officer who wilfully violates any of the provisions of KRS 68.010, 68.020(3), 68.220 to 68.260, 68.290, 68.300 or 68.360 shall be fined not less than fifty (50) nor more than two hundred dollars ($200).

(8) Any person, including a corporation, who wilfully fails to prepare or file a timely return, account, or license application described in KRS 68.185, or who wilfully prepares or files a false or inaccurate return, account, or license application shall be fined not more than one hundred dollars ($100).

Section 5. Whereas a revised budget system must be instituted at the beginning of the fiscal year, July 1, 1984, but bills passed during the 1984 session of the General Assembly will not become law until after such date, an emergency is declared to exist, and this Act shall take effect upon passage by the General Assembly and approval by the Governor.

The Committee Title Amendment to **HB 22** is as follows:

Amend printed copy of **HB 22**, amend the title to read as follows: "AN ACT relating to county financial management."

The Committee Amendment No. 1 to **HB 22** is as follows:

Amend printed copy of **HB 22**, on page 3, line 4, by deleting the words *July 1, 1984,* and inserting in lieu thereof the words *July 1, 1985,*

and on page 7 and 8 by deleting Section 5 in its entirety.

HB 278, AN ACT relating to county personnel and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the number of deputies and assistants, and the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office. (4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. *The fiscal court may, upon the written request of the officer, increase or decrease the number of permanent or temporary deputies and assistants authorized to the office at any time after the beginning of the term of the officer. The fiscal court shall fix the compensation of deputies and assistants hired during the term of the officer at the time of their employment, and their compensation may be reviewed and adjusted at the same time as that of other deputies and assistants.* On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 2. KRS 68.290 is amended to read as follows:

The fiscal court may transfer money from one (1) budget fund to another to provide for emergencies *or increases or decreases in county employment pursuant to KRS 64.530(4).* The order of the fiscal court making the transfer shall show the nature of the emergency *or personnel increase or decrease* and the reason for making the transfer. The fiscal court shall not have any power to transfer money from any sinking fund or special fund raised for a specific purpose until the obligation or purpose for which the fund was raised has been satisfied.

Section 3. Whereas, in certain counties, deputy county clerks and deputy sheriffs have been hired after the beginning of the county clerks' or county sheriffs' terms of office and questions exist about the legal capacity of the counties to pay these deputies, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

The Committee on Transportation reported **HB 45** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 45, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.040 is amended to read as follows:

(1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration and ownership containing the information required by subsection (2) and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the governor that previously issued plates continue to be used for a designated period. For services performed the owner shall pay the county clerk the sum of two dollars ($2.00) for each registration, *or if said registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3.00).*

(2) The certificate of registration and ownership shall contain the registration number, the names and post office addresses of the owner and the secured party as shown by the financing statement on file in the office of the county clerk and such other information as the cabinet may require. The owner's copy of such certificate shall bear the seal of the county clerk who issued same. No fee shall be charged for placing such seal on the owner's copy of the certificate.

(3) If a motor vehicle, other than a new motor vehicle, is registered in this state under the authority of a bill of sale, registration receipt or title, the certificate of registration and ownership shall show the title or the registration number and the name of the state issuing same under which the motor vehicle was last registered in addition to the other required information.

Section 2. KRS 186A.035 is amended to read as follows:

(1) All motor vehicles with a gross vehicular weight of 6,000 pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless cancelled by the cabinet in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last day of the next birth month of the owner following the month during which registration is applied for, provided however that, upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of *two dollars ($2) for each registration, or if said registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3.00)* [~~one dollar ($1.00) per each twelve (12) month period or any portion thereof~~].

(5) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(6) Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month, shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(7) The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins, and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the department of vehicle regulation.

Senate Message

Announcing passage of **SB 38**.

Orders of the Day

HB 5 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 5** be passed.

On the roll call the vote was yeas 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 5 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 5** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 12, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 12.** Agreed.

Representative Long moved that **HB 12,** as amended, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 12, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 12,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended to waive the posting requirement on **HB 19, HB 87, HB 122, HB 80,** and **HB 81**. Agreed.

Representative Hines moved the adoption of the following **HR 23:**

HR 23, A RESOLUTION extending a welcome home to Navy Lt. Robert Goodman.
WHEREAS, the United States made a foreign policy decision to join and support a "multi-national peacekeeping force" to help resolve the conflict in Lebanon; and
WHEREAS, as a result of United States participation in that war-torn area, U.S. reconnaissance planes were fired upon by Syrian troops; and

WHEREAS, Navy Lt. Robert Goodman of Virginia Beach, Virginia, a bombardier-navigator, was shot down by Syrian gunners in Lebanon on December 4, 1983; and

WHEREAS, the wounded Lt. Goodman was immediately captured by the Syrian military; and

WHEREAS, traditional diplomatic methods had failed to secure Lt. Goodman's release; and

WHEREAS, the Reverend Jesse Jackson courageously and independently traveled to Damascus to appeal to Syrian President Hafez Assad to release the 27 year old flier; and

WHEREAS, Reverend Jackson's humanitarian pleas were successful and Lt. Robert Goodman was released by his Syrian captors on January 3, 1984; and

WHEREAS, Lt. Goodman and Reverend Jackson returned to the United States on Wednesday, January 4, 1984, one month from the day the Navy plane was downed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body extends a thankful "welcome home" to Lt. Robert Goodman and recognizes this outstanding young man to be an exemplary representative of the United States of America.

Section 2. That the House of Representatives extends its deepest appreciation to Reverend Jesse Jackson for his admirable unselfish efforts to secure Lt. Goodman's release.

Section 3. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky extends its best wishes to Lt. Robert Goodman and his family in all of their future endeavors.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Navy Lt. Robert Goodman of Virginia Beach, Virginia.

HR 23 was adopted by voice vote.

Representative O'Brien moved that **HCR 21** be reassigned to the Committee on Natural Resources and Environment. Agreed.

Representative B. Smith moved that he be recorded as changing his vote from "yea" to "nay" on **HB 13**. Agreed.

Representative Blevins moved that he be recorded as voting "yea" on **HB 5**. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blandford, **HB 33**; Representative Blevins, **HB 163**; Representative Bronger, **HB 158**; Representative Brinkley, **HB 33**; Representative Handy, **HB 40, HB 217**; Representative Hines, **HB 132**; Representative Morris, **HB 1, HB 311**; Representative Thomas, **HB 267, HB 197, HB 133, HB 120, HB 100, HB 75, HB 51, HB 27**; Representative White, **HB 250**; Representative Williams, **HR 23**.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 42**, by Representative Pearman:

Amend printed copy of **HB 42**, on page 3, line 26, after the word "shall" by adding the words "*, within twenty (20) days following cancellation,*"

On page 4, line 7 after the word "within" by adding "*twenty (20)*" and by placing brackets and strikethrough around "thirty (30)"

On page 4, line 9, after the period, by adding "*(3) Every authorized insurance company shall immediately notify the department of vehicle regulation upon the nonrenewal of any contract of insurance required by KRS 304.39-080(5).*"

On page 10, after line 17, by inserting the following:

"Section 5. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1500) pounds or less which is not used in the occupation, profession or business of the insured; provided, however, that this section shall not apply:

a. To any policy issued under an automobile assigned risk plan, or

b. To any policy insuring more than four automobiles, or

c. To any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards.

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage.

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than six (6) months shall for the purpose of this section be considered as if written for a policy period or term of six (6) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and such policy may be terminated at the expiration of any annual period upon giving twenty (20) days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this section.

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any instalment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date.

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy.

(d) This subsection shall not apply to nonrenewal.

(3) *(a)* No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation[~~; provided, however, that where cancellation is for nonpayment of premium at least ten (10) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals~~].

(b) No notice of cancellation of a policy by an insured shall be effective unless mailed or delivered by the insured to the insurer at least twenty (20) days prior to the effective date of cancellation.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. This subsection shall not apply:

(a) If the insurer has manifested its willingness to renew; nor

(b) In case of nonpayment of premium. Provided, that, notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies. Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(6) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(7) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. Such notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b).

(8) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(9) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employes, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

Section 6. KRS 186A.040 is amended to read as follows:

(1) The department of *vehicle regulation* [~~insurance is hereby authorized to develop a program whereby that department~~] shall provide *and receive* information on the insurance status of vehicles registered in the Commonwealth of Kentucky. *The department shall provide appropriate insurance information* to the bureau of technical services for inclusion in the AVIS data base.

(2) Upon notification to the department of vehicle regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085 the department shall immediately notify the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have ten (10) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within ten (10) days the department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(3) The department of vehicle regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by subsection (2) of this section.

(4) If the insured provides proof of insurance to the clerk after notification by the department, appropriate action shall be taken by the department to denote a valid insurance policy is in force [~~Nothing in this section shall be construed as prohibiting the county clerk from registering or titling a vehicle because of insurance information~~]."

Announcements

The following meetings were announced:

Committee on Rules: On adjournment today, Room 316.

Cities: Wednesday, 9:00 a.m.

Judiciary-Criminal: Thursday, 8:00 a.m.

Majority Caucus: On adjournment, Room 109.

Agriculture and Small Business: Wednesday, 9:00 a.m., Room 103.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, January 11, 1984.

On the roll call the vote was yeas 78-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley,Bronger, Bruce, Burch, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, List, Little, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Yates. Nays 9-Deskins, Guenthner, Heleringer, Lile, Maggard, Moore, Overstreet, Perkins, Williams.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 11, 1984

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Wayne Smith, Southland Christian Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of January 10, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HJR 25, by Representative Brinkley: A JOINT RESOLUTION authorizing and directing the Governor to establish and to appoint a commission to study the feasibility of an authority to develop offshore coal loading facilities to facilitate the exporting of Kentucky coal.

HB 317, by Representative Barrows, T. Jones, Mann, Donnermeyer, and B. Smith: AN ACT relating to school taxes.

HB 318, by Representative Moberly, Noe, Barrows, T. Jones, and Mann: AN ACT relating to school month and school day.

HB 319, by Representative Blevins, Cyrus, Gray, Turner, Williams, and Perkins: AN ACT relating to dental hygienists.

HB 320, by Representatives Moberly, Noe, F. Smith, Johnson and Barrows: AN ACT relating to the school month and day.

HB 321, by Representatives Moberly and Barrows: AN ACT relating to higher education.

HB 322, by Representatives Foster and Van Horn: AN ACT relating to the computation of time.

HB 323, by Representatives Cowan, Yates, Bendl, Bronger, Burch, P. Clark, Dunn, Guenthner, Handy, Heleringer, Hines, Holloway, R. Jones, Lile, Nett, Priddy, Riner, Seum, F. Smith, and Williams: AN ACT relating to employment skills training.

HB 324, by Representatives Kenton, Meyer, and Handy: AN ACT relating to property assessment and reassessment moratoriums.

HB 325, by Representatives Cyrus, Maggard, Farrow, Van Horn, Little, Noland, Lefevers, and Perkins: AN ACT relating to railroads.

HB 326, by Representative B. Jones: AN ACT relating to municipal incorporation.

HB 327, by Representative Noe: AN ACT relating to insurance.

HB 328, by Representative Noe: AN ACT relating to insurance.

HB 329, by Representative Noe: AN Act relating to management and operation audits.

HB 330, by Representative Farrow: AN ACT relating to hunting and fishing.

HB 331, by Representative Brown: AN ACT relating to oil and gas.

HR 26, by Representative Freibert: A RESOLUTION commending and recognizing the Lexington

Catholic High School women's cross country team.

HR 27, by Representative Freibert: A RESOLUTION commending and recognizing the Lexington Catholic High School soccer team.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committee has referred the following Bills and Resolutions:

Cities: **HB 314.**

Counties and Special Districts: **HB 311, HB 312, HB 313.**

Judiciary-Civil: **HB 315, HB 316.**

Labor and Industry: **SB 38.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 282, HB 229, HB 226, HB 195, HB 196, HB 194.**

Natural Resources and Environment: **HCR 21.**

Labor and Industry: **HB 211, HB 146, HB 124.**

Agriculture and Small Business: **HB 75, HB 113.**

Business Organizations and Professions: **HB 270.**

Report of Committees

The Committee on Rules reported **HB 20, HB 36, HB 37,** and **HB 49** have been posted for passage in Orders of the Day, January 12, 1984.

The Committee on Agriculture and Small Business reported **HB 34, HB 35,** and **HB 51** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 34, AN ACT relating to farmland.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 262 IS CREATED TO READ AS FOLLOWS:

(1) There shall be created a committee to advise the governor on state activities that may contribute to the conversion of farmland to non-farm uses. The committee shall be called the inter-agency farmland advisory committee and the members shall be appointed by the governor and shall include one (1) representative for each of the following:

(a) Governor's cabinet;
(b) Finance and administration cabinet;
(c) Revenue cabinet;
(d) Commerce cabinet;
(e) Energy cabinet;
(f) Transportation cabinet;

(g) Natural resources and environmental protection cabinet;
(h) Department of agriculture;
(i) Department of local government;
(j) Department of fish and wildlife resources;
(k) Soil and water conservation commission;
(l) Dean, College of Agriculture, University of Kentucky;
(m) Two (2) farmer owners and operators of one hundred fifty (150) acres or less, one (1) selected from a list of three (3) persons recommended by the Kentucky farm bureau, and one (1) selected from a list of three (3) persons recommended by the national farmers organization;
(n) Two (2) farmer owners and operators of more than one hundred fifty (150) acres, one (1) selected from a list of three (3) persons recommended by the Kentucky farm bureau, and one (1) selected from a list of three (3) persons recommended by the national farmers organization; and
(o) The joint chairpersons of the interim joint committee on agriculture and natural resources.

(2) The representative of the natural resources and environmental protection cabinet shall be the chairperson of the committee, and the representative of the soil and water conservation commission shall be the vice-chairperson of the committee. The staff for the committee shall be provided by the natural resources and environmental protection cabinet.

(3) In order to advise the governor, the committee shall review proposed state projects which will convert farmland to non-farm use. The review shall consider alternatives to the project proposal in an effort to balance the public purpose to be served by the state project against the public purpose of conserving productive farmland.

(4) The inter-agency farmland advisory committee shall review proposed projects of all state agencies, including but not limited to, boards and commissions. The review shall be limited to proposed projects which will require the acquisition of more than fifty (50) acres of farmland.

(5) During the planning stage of the project and before any action is taken to acquire farmland, the state agency shall submit a report to the committee. The report shall explain the project, highlight the location of land that must be acquired, present the reasons for needing the land and explain the reasons for rejecting alternatives to the proposed project.

(6) The committee shall provide notice of the proposed project to the local community within fifteen (15) days after receiving the report. The notice shall solicit comments on the proposal and state that a public hearing will be held upon a request received within fifteen (15) days of the last published notice. If requested, the public hearing shall be held within fifteen (15) days after receiving the request. No later than ten (10) days after the hearing, the committee shall file its report and any recommendations to the governor. The committee may recommend to the governor that action be taken by the governor to alter the proposed state project if necessary to balance the public interests.

(7) A majority of the members of the committee constitutes a quorum for conducting business, and any action taken in the name of the committee requires an affirmative vote of a majority of the members present and voting.

(8) Members shall receive no compensation but shall be reimbursed for expenses incurred.

HB 35, AN ACT relating to agricultural land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.850 is amended to read as follows:

(1) This section shall be known as "the agricultural district and conservation act."

(2) It is the policy of the state to conserve, protect and to encourage development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the policy of this state to conserve and protect the agricultural land base as a valuable natural resource which is both fragile and finite. The pressure imposed by urban expansion, transportation systems, water impoundments, surface mining of mineral resources, utility rights-of-way and industrial development has continually reduced the land resource base necessary to sufficiently produce food and fiber for our future needs. It is the purpose of this section to provide a means by which agricultural land may be protected and enhanced as a viable segment of the state's economy and as an important resource.

(3) The local governing administrative body for an agricultural district shall be the conservation district board of supervisors. The soil and water conservation commission shall be responsible for statewide administration of the agricultural district program and shall have sole authority to certify or deny agricultural district petitions. The commission may apply for assistance and funds from the federal farmland protection act of 1981 (PL 97-377) which may be available for the development of the agricultural district program and may accept easements as provided in KRS 65.410 - 65.480.

(4) Any owner or owners of land may submit a petition to the local conservation district board of supervisors requesting the creation of an agricultural district within such county. Such petition shall include a description of the proposed area, description of each land parcel, location of the proposed boundaries, petitioners' names and addresses, adjacent landowners' names and addresses, and other pertinent information as required in the petition application. The boundary of an agricultural district shall be contiguous. No land shall be included in an agricultural district without the consent of the owner.

(5) Upon receipt of a petition, the local conservation district board of supervisors shall notify the fiscal court and any local or regional planning or zoning body, if any, by sending a copy of the petition and accompanying materials to that body.

(6) The following factors shall be considered by the local conservation district board of supervisors and the soil and water conservation commission when considering the formation of any agricultural district:

(a) The capability of the land to support agricultural production, as indicated by: soil, climate, topography or other natural factors;

(b) The viability of active farmlands, as indicated by: markets for farm products, extent and nature of farm improvements, present status of farming, anticipated trends in agricultural economic conditions and technology;

(c) That the proposed agricultural district meets the minimum size limit of two hundred fifty (250) contiguous acres;

(d) County development patterns and needs and the location of the district in relation to any urban development boundaries within the county; and

(e) Any matter which may be relevant to evaluate the petition.

(7) The local soil and water conservation district board of supervisors shall review the petition application and submit a recommendation to the soil and water commission within sixty (60) days of receipt. The local conservation district recommendation shall be submitted to the commission in the form of approval, approval with modifications, or denial of the petition accompanied by justification for such a denial.

(8) The soil and water conservation commission shall review the recommendation of the district board of supervisors and certify or deny the agricultural district's petition within sixty (60) days of receipt.

(9) Upon the approval of a petition by the soil and water conservation commission, the commission shall notify the area development district in which the agricultural district will lie and the secretary of the governor's cabinet.

(10) Land within the boundary of an agricultural district shall not be annexed[~~; nor shall land within the boundaries of an approved plan in accordance with section 201 of the federal water pollution control act amendments of 1972 (PL 92-500) be included in an agricultural district~~].

(11) Any member, or any successor heir of the member, of an agricultural district may withdraw from the district upon notifying the local conservation district board of supervisors in writing.

(12) It shall be the policy of all state agencies to support the formation of agricultural districts as a means of preserving Kentucky's farmlands and to mitigate the impact of their present and future plans and programs upon the continued agricultural use of land within an agricultural district.

(13) Agricultural districts shall be comprised only of agricultural land as defined in KRS 132.010.

(14) An agricultural district shall be established for five (5) years with a review to be made by the local soil and water conservation district board of supervisors at the end of the five-year period and every five (5) years thereafter. However, the board shall make a review any time upon the written request of a local government which demonstrates that the review is necessary in order to consider development needs of the local government. The board shall consider whether the continued existence of the district is justified, any adjustments which may be necessary due to urban or county development, and other factors the board finds relevant. The board shall revise the district as necessary based on the review and subject to approval of the state soil and water conservation commission.

(15) The withdrawal of a member from a district reducing the remaining acreage of agricultural district land to less than two hundred fifty (250) acres or resulting in the remaining land being noncontiguous shall not cause the decertification of the district.

(16) Any member of an agricultural district who has received a summons of condemnation proceedings being instituted concerning the member's land located in the district may request the local soil and water conservation district board of supervisors to hold a public hearing on the proposed taking of land.

(17) (a) The board shall notify the local property valuation administrator of the farms which belong to an agricultural district and whenever a farm is withdrawn from a district. The board shall also inform all members of a district of the right to have their land assessed by the local property valuation administrator at the land's agricultural use value and shall offer advice and assistance on obtaining such an assessment.

(b) The board shall also notify the local property valuation administrator whenever a farm is released or withdrawn from an agricultural district.

HB 51, AN ACT relating to agriculture and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly hereby finds and declares that as a result of a variety of pressures, most notably the continual spiral of inflation and the increasingly serious effects of speculative land values, the opportunities in agriculture have been severely limited; that one of the major impediments to the purchase of agricultural land, machinery and equipment by farmers is their inability to secure adequate financing upon reasonable terms; and, that it is both necessary and desirable to institute policies and programs which will encourage agricultural pursuits from which the Commonwealth derives the numerous social, economic and environmental benefits which historically have proved beneficial to its citizens.

(2) The general assembly hereby finds and declares further that private enterprise and investment have not been able to produce, without assistance, the capital necessary to permit the small, family farm operators to continue to compete successfully in agricultural enterprises or to permit enterprising individuals to become farmers.

(3) The general assembly hereby finds and declares further that the purposes of this Act are to provide a financing instrumentality more closely allied with the department of agriculture in order that the benefits intended hereunder may be more effectively administered to those engaged in agriculture and related enterprises.

(4) The general assembly hereby finds and declares further that in order to accomplish the purposes herein set forth, the Kentucky agricultural finance corporation shall be and constitute a de jure municipal corporation and political subdivision of the Commonwealth created for the purpose of performing essential public functions and serving the public purposes in improving and promoting the health, welfare and prosperity of the people of the Commonwealth through the stimulation of existing agricultural enterprises and the promotion of new agricultural ventures.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Applicant" means any person, partnership or corporation engaged in agricultural endeavors and related businesses and deriving at least two-thirds (2/3) of its annual gross income therefrom;

(2) "Board" means the board of directors of the corporation;

(3) "Bond resolution" or "resolution" means the formal document of the corporation authorizing its obligations;

(4) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this Act;

(5) "Commissioner" means the commissioner of agriculture;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Corporation" means the Kentucky agricultural finance corporation created by this Act;

(8) "Department" means the department of agriculture;

(9) "Governmental agency" means any city, county or other political subdivision of the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state and any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing in the area of assistance to agriculture;

(10) "Issuing agency capacity" means the action of the corporation in authorizing revenue bonds for a qualified project in accordance with the provisions of KRS 103.200 through 103.285 in which the corporation's liability is limited primarily to fiduciary duties;

(11) "Lending agency capacity" means the action of the corporation in participating directly or indirectly in the making of loans to or the purchasing of loans of qualified applicants;

(12) "Obligations" means any bonds or notes authorized to be issued by the corporation under the provisions of this Act;

(13) "Project" means any undertaking to provide for the financing of the acquisition of land, buildings, machinery, equipment, and livestock in the area of agricultural enterprise; including growing, storing, processing, warehousing, marketing and distribution facilities in respect thereof; provided, however, it is not the intent of this Act to provide a means for refinancing existing agricultural facilities;

(14) "Trust agreement" means an indenture by and between the corporation and the corporate trustee setting forth the rights and duties of each relating to the authorization, sale, issuance, delivery and payment of the corporation's obligations; and

(15) "Umbrella obligation" means bonds or notes issued by the corporation in its issuing agency

capacity or its lending agency capacity under the provisions of this Act, the proceeds of which may be used in the financing of multiple projects for two (2) or more applicants.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established the Kentucky agricultural finance corporation.

(2) The corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people through the promotion of agriculture throughout the Commonwealth. (3) The corporation shall be governed by a board of directors, consisting of eleven (11) members, three (3) of whom shall be ex officio members of the board as follows:

(a) The commissioner or his designee;

(b) The secretary, finance and administration cabinet, or his designee; and

(c) The lieutenant governor or his designee.

(4) Upon the organization of the corporation, the commissioner, with the consent of a majority of the ex officio members of the board, shall appoint eight (8) private members of the board to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, four (4) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, one (1) for a term of three (3) years and one (1) for a term of four (4) years respectively, as the commissioner shall designate; at the expiration of said original terms and for all succeeding terms, the commissioner shall appoint a successor to the board for a term of four (4) years in each case. Of the initial eight (8) private members of the board appointed by the commissioner, one (1) shall be an officer from a commercial lending institution, one (1) shall be an officer from a farm credit association, one (1) shall be an agricultural economist, one (1) shall be a tobacco farmer, one (1) shall be a cash grain farmer, one (1) shall be a livestock farmer, one (1) shall be a dairy farmer, and one (1) shall be from the equine industry.

(5) Upon the expiration of the initial terms of the private members of the board, the commissioner shall appoint successors representing the same constituencies as the members succeeded for a term of four (4) years in each case. In the case of a vacancy, the commissioner may appoint a successor to hold office during the remainder of the term.

(6) The commissioner shall serve as chairman of the board.

(7) The board of directors shall annually elect one (1) of its members as vice-chairman and shall also elect or appoint, and prescribe the duties of, such other officers as the board deems necessary or advisable, including, but not limited to, an executive director, secretary and legal counsel, and shall fix the compensation therefor.

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely on such certifications.

(9) A majority of the board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies; provided, however, that a majority of the board may elect from among its members an executive committee to act in its stead in the day to day conduct of the business of the corporation. Notwithstanding the foregoing, the full board shall hold at least one (1) meeting each calendar quarter in accordance with a schedule to be established by the board.

(10) Action may be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum exists called upon three (3) days written notice or upon the concurrence of at least six (6) directors or by the board's executive committee.

(11) All members of the board shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties. Each appointed member of the board shall be entitled to a fee of fifty dollars ($50.00) for attendance at each meeting of the board or executive committee.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by this Act in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions

of this Act and the rules and regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training and financial ability in relation to the project for which assistance is sought and such other areas as the corporation shall determine necessary and desirable in implementing the intent of this Act in the promotion of agriculture throughout the Commonwealth;

(c) The economic need for the project in the area; and

(d) The economic soundness of the project.

(3) To issue in its issuing agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 through 103.285; provided, however, that obligations issued by the corporation in its issuing agency capacity shall not be subject to the jurisdiction or approval of the industrial revenue bond oversight committee or the state property and buildings commission but shall be subject to the review of the division of investment and debt management;

(4) To issue in its lending agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth; provided, however, that bonds issued by the corporation in its lending agency capacity in accordance with Section 6 of this Act shall be subject to the review of the division of investment and debt management;

(5) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(7) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock;

(8) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock;

(9) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(10) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(11) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage and operate such real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber such real and personal property where necessary or appropriate to the purposes of the corporation;

(12) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage or other instrument or document securing any loan permitted by this Act;

(13) To procure insurance against any loss in connection with its operations in such amounts and from such insurers, as it may deem necessary or desirable;

(14) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract or agreement of any kind to which the corporation is a party;

(15) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(16) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(17) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership or other organization or entity, necessary to accomplish the purposes of this Act;

(18) To accept gifts, devises, bequests, grants, loans, appropriations and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(19) To sue and be sued in its own name;

(20) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(21) To employ fiscal consultants, engineers, attorneys, appraisers and such other agents and employes as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor; and

(22) To invest any funds held in sinking funds, reserve funds or trust fund accounts or any monies not required for immediate disbursement by the corporation in obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities; subject,

however, to federal law and regulations relating to the investment of the proceeds of obligations the interest on which is exempt from federal income taxation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Obligations issued under the provisions of this Act shall not be deemed to constitute a debt, liability or obligation of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any such political subdivision, but shall be payable solely from the revenues or assets of the corporation. Each obligation issued under the provisions of this Act shall contain on the face thereof a statement to the effect that the corporation shall not be obligated to pay the same nor the interest thereon, except from the revenues or assets pledged therefor, and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of or the interest on such obligations.

(2) Expenses incurred by the corporation in carrying out the provisions of this Act may be payable from funds provided pursuant to this Act and no liability shall be incurred by the corporation hereunder beyond the extent to which monies shall have been so provided.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The corporation is hereby authorized to provide for the issuance in its lending agency capacity and in its issuing agency capacity, at one (1) time or from time to time, of bonds or notes of the corporation in an amount not to exceed five hundred million dollars ($500,000,000). The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Notes may be made payable from the proceeds of the bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation.

(2) Bonds or notes of each issue shall be dated and may be redeemable prior to maturity at the option of the corporation under such terms and conditions as may be determined by the corporation.

(3) Bonds or notes shall bear interest at such rate or rates as may be determined by the corporation at a publicly advertised competitive sale or, at the discretion of the corporation, upon a private, negotiated basis.

(4) Bonds or notes shall mature as to principal and shall be payable as to interest upon such terms as the corporation shall determine in light of the conditions of the municipal bond market at the time of their authorization; provided, however, that obligations issued to finance personal property shall not have a term in excess of the expected useful life of the property financed.

(5) The corporation shall determine the form and manner of the execution of the bonds or notes, denominations and places of payment. In the event any officer of the corporation whose signature or a facsimile of whose signature shall appear on any bonds or notes attached thereto shall cease to be an officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if said party had remained in office until delivery.

(6) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such a manner and under such restrictions as the corporation may determine in its bond resolution authorizing the issuance thereof or in the trust agreement.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

In the discretion of the corporation, any obligations issued under the provisions of this Act may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be any trust company or bank having powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the corporation, including, without limitation, mortgage loans, mortgage loan commitments, contracts, agreements and other security or investment obligations, the fees or charges made or received by the corporation, the monies received in payment of loans and interest thereon, and any other monies received or to be received by the corporation. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such obligations as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the purposes to which the obligation proceeds may be applied, the disposition of the pledging of the revenues or assets of the corporation, the terms and conditions for the issuance of additional obligations, and the custody, safeguarding and application of all monies. It shall be lawful for any corporate trustee which may act as depository of the proceeds of obligations, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Any such trust agreement or resolution may set forth the rights and remedies of the holders of the obligations of the corporation and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the corporation may deem reasonable and proper for the security and source of payment of its obligations. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be paid from the revenues or *assets pledged or assigned to the payment of the principal of and the interest on the obligations or from any other funds available to the corporation.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The pledge of any assets or revenues of the corporation to the payment of the principal of or the interest on any obligations of the corporation issued in its lending agency capacity shall be valid and binding from the time such pledge is made, and any such assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise, against the corporation, regardless of whether such parties have notice thereof. Nothing herein contained shall be construed to prohibit the corporation from selling any assets subject to any such pledge except to the extent that any such sale may be restricted by the terms of the trust agreement or resolution authorizing the issuance of such obligations.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The holder of obligations of the corporation issued in its lending agency capacity pursuant to the provisions of this Act and the trustee under any trust agreement or resolution authorizing the issuance of such obligations, except the rights herein given may be restricted by such trust agreement or resolution, may, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the corporation pursuant to this Act, and may enforce and compel the performance of all duties required by this Act or by such trust agreement or resolution to be performed by the corporation or any officer thereof.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any of the foregoing provisions of this Act or any recitals in any obligations issued pursuant to the authority granted hereunder, all such obligations shall be and are hereby made negotiable instruments under the laws of this state, subject only to any applicable provisions for registration as set forth in the trust agreement or resolution.

SECTION 11. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Obligations issued by the corporation in its lending agency capacity under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executives, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds, notes or obligations of the Commonwealth is now or may hereafter be authorized by law.

SECTION 12. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the general assembly. Each such report shall set forth a complete operating financial statement relating to the corporation during the year. The persons performing such audits shall furnish copies of the audit to the secretary, finance and administration cabinet, and the executive director of the division of investment and debt management, where they shall be placed on file and made available for inspection by the general public.

SECTION 13. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No member of the board of directors or other officer of the corporation shall be made subject to any personal liability or accountability by reason of their execution of any obligations of the corporation nor the issuance thereof.

SECTION 14. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation is authorized to accept and expend such monies as may be appropriated from time to time by the general assembly or such monies as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation.

SECTION 15. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The corporation shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality or other governmental subdivision of the Commonwealth upon any of its property or *upon its obligations or other evidences of indebtedness pursuant to the provisions of this Act, or upon any monies, funds, revenues or other income held or received by the corporation and the bonds or notes of the corporation and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers; provided, however, that real or personal property owned by the corporation shall be exempt from all property taxation and special assessments of the Commonwealth or its political subdivisions, but the corporation shall pay, in lieu of such taxes, such amounts as would have been levied had not said real or personal property been owned by the corporation.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

To the extent the provisions of this Act delegate to the corporation powers concurrently now held by other governmental agencies, including, but not being limited to, the provisions of KRS 103.200 through 103.285 and KRS 154.010 through 154.170, the provisions hereof shall be regarded as supplemental and not in derogation of any powers now existing.

SECTION 17. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Upon the termination or dissolution of the corporation, all rights and properties of the corporation shall pass to and be vested in the Commonwealth, subject to the rights of lienholders and other creditors.

SECTION 18. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

All state and federally chartered banks may apply through the corporation for loans for qualified farmers and such banks shall receive a commission therefor as determined by the corporation.

Section 19. Whereas, it is necessary for farmers to have sufficient land, machinery and equipment in time for the spring planting of crops, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Cities reported **HB 145, HB 274,** and **HB 276** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 145, AN ACT relating to cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 92.560 is amended to read as follows:

As soon as the tax levy ordinance in each city of the second class becomes in force, the auditor shall deliver the assessment books to the city clerk, who shall from them make out the tax bills. Each bill shall show each lot and the assessment thereon separately, the name of the supposed owner, the net total assessment of personal property against the person and the tax thereon. The tax bills shall be so arranged that the bill for each half-year may be detached and have each part intelligible. There shall be attached to each bill a stub showing in condensed form the items and amounts in the bill, and the bills and stubs shall be numbered consecutively, the number of each stub to correspond to the bill to which it is attached. The bills and stubs shall be bound in book form. *As soon as practicable* [~~On or before April 1 of each year~~] the clerk shall deliver the assessment books and tax bills to the auditor, and together they shall ascertain whether the sum of the tax bills equals the amount of the tax which, at the rate fixed, the total assessment should realize, and if it does not, they shall find and correct the error. When the error is corrected, the auditor shall receipt for the assessment books and tax bills. The auditor shall then deliver all tax bills to the treasurer and take his receipt for the gross amount of the bills. As soon as practicable after receiving the tax bills, the treasurer shall mail to each person against whom a tax bill has been listed, or to his guardian or conservator, a postpaid notice, directed to the best of his knowledge, stating the number and amount of the bill, the date when due and the penalties imposed for nonpayment. The failure of the treasurer to send the notice, or of the taxpayer, guardian or conservator to receive it, shall not invalidate the tax or the interest or penalties, or any subsequent proceeding for the collection thereof.

Section 2. KRS 92.590 is amended to read as follows:

(1) Taxes in cities of the second, third and fourth classes shall be due and payable as follows:

(a) Ad valorem taxes in cities of the second class, *as determined by ordinance* [~~one-half (1/2) on June 1 and one-half (1/2) on October 1~~].

(b) All city taxes in cities of the third class, as soon as the bills come into the hands of the collector.

(c) All city taxes in cities of the fourth class, on July 1; but the city legislative body may provide, by ordinance enacted on or before July 1, that all ad valorem taxes shall be due and payable in two (2) instalments, one-half (1/2) on July 1 next after the assessment date and one-half (1/2) on December 1, in which case, if the first instalment is not paid on or before August 1, both instalments shall be deemed to have become due and payable on July 1.

(2) In cities of the second class, taxpayers owing ad valorem taxes shall pay them, without demand therefor, at the treasurer's office. The taxpayer may pay the whole tax at any time after the tax bills have been made out and delivered to him. The city legislative body may provide by ordinance that taxes paid during the *second* month *preceding* [~~of April in~~] the *date* [~~year in~~] which they are due and payable may be reduced by a discount of three percent (3%), and taxes paid during the month *immediately preceding the date which they are due and payable* [~~of May in that year~~] may be reduced by a discount of two percent (2%). Taxes not paid within one (1) calendar month after they are due shall be deemed delinquent and shall have added to them a penalty of ten percent (10%), and shall thereafter bear interest at the rate of one-half of one percent (.5%) for each month or fraction of a month until paid, or until the property of the delinquent has been sold for the tax. When taxes are paid the treasurer shall note on the stub of the bill the amounts paid and the date thereof, and shall deliver the receipted bill, countersigned by the auditor, to the taxpayer. When any person desires to pay taxes on any one (1) item of real estate in a tax bill he shall be allowed to do so, if the city's interest will not be prejudiced thereby, and shall be given a receipt showing the date and the amount of the payment, the number of the tax bill, the name of the person against whom the tax bill is made out and a sufficient description to identify the property on which the taxes are paid. A corresponding notation shall be made on the tax bill and the stub, and the city's lien shall thereupon stand released as to that property, but the tax bill shall not be surrendered until paid in full.

(3) The common council of each city of the third class may provide by ordinance such discounts for prompt payment and penalties for late payment of taxes as it deems proper. All taxes owed to such cities shall bear interest at six percent (6%) per annum from October 1 of each year. The common council shall not refund to any person any taxes lawfully collected, nor extend the time for the payment of taxes, nor release any penalty incurred by nonpayment of taxes.

(4) The legislative body of each city of the fourth class may provide, by ordinance enacted on or before July 1, that:

(a) Any taxpayer may pay at any time, and the collector shall receive, any amount in even dollars as part payment or advance payment of taxes; a discount of six percent (6%) per annum, from the date of payment until the date when the taxes would have become due and payable, shall be allowed on all taxes paid in advance.

(b) All taxes remaining unpaid on the first day of the month following that in which they became due and payable shall be deemed delinquent, and shall bear interest at the rate of six percent (6%) per annum from the due date until paid; a penalty of six percent (6%) on the taxes so delinquent shall be paid, except when all instalments are paid in full on or before December 1.

(5) When any city of the fourth class gives effect by ordinance to the provisions of subsection (4) and paragraph (c) of subsection (1) of this section, all statutes inconsistent with such provisions shall not apply.

(6) When a city of the fourth class does not give effect by ordinance to the provisions of subsection (4) and paragraph (c) of subsection (1) of this section, all tax bills remaining in the hands of the collector or treasurer on November 1 in each year, unpaid, shall be indorsed by him "delinquent," and returned to the city clerk, and such bills found in the tax list returned by the clerk to be unpaid shall be credited to the collector or treasurer on his receipt. The city clerk shall thereupon proceed to attach to each tax bill the penalty prescribed by ordinance, not exceeding twenty-five percent (25%), and such interest as is provided by ordinance, and shall then deliver the tax bills to the collector and take his receipt therefor.

HB 274, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) An alternative to establishing a metropolitan sewer district pursuant to KRS 76.010, any city of the second class together with the county in which it is located, may jointly establish a sewer agency for the purpose of providing sewer and drainage facilities within the city and the county.

(2) A joint sewer agency shall be established upon the enactment of identical ordinances establishing and setting out the powers of the agency by both the legislative body of the city and the fiscal court of the county.

(3) All the powers granted a metropolitan sewer district in cities of the first class by KRS 76.010 to 76.279 may be granted by ordinance to the sewer agency except that such powers may be restricted or qualified in order to conform to the local needs of the county and the city.

(4) The legislative body of the city and the fiscal court of the county shall establish a schedule of rates, rentals and charges to be collected from all real property served by the facilities of the sewer agency in

the manner provided by KRS 76.090. If for whatever reason the city and county cannot agree to amendments to a rate schedule, the current schedule shall remain in effect until such time as an agreement can be reached.

(5) The joint sewer agency shall be administered as a separate legal entity or by a jointly appointed administrator or joint board as set out in the establishing ordinances.

(6) The joint sewer agency may be dissolved only by a joint action of the legislative body of the city and the fiscal court of the county. The establishing ordinance may be amended in the same manner as originally enacted.

SECTION 2. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

Any city of the second class and the county in which it is located which have established a joint sewer agency pursuant to Section 1 of this Act may authorize the issuance of revenue bonds pursuant to the procedure set out in KRS 76.150 and 76.160, except that such bonds may bear interest at a rate in excess of five percent (5%) per annum.

HB 276, AN ACT changing the classification of the City of Orchard Grass Hills in Oldham County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Orchard Grass Hills, in Oldham County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Orchard Grass Hills, in Oldham County, is transferred from the sixth to the fifth class of cities.

The Committee on Health and Welfare reported **HB 40,** with Committee Substitute attached thereto, and **HB 217,** with Committee Amendment attached thereto, with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 40, AN ACT relating to formaldehyde.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.710 is amended to read as follows:

(1) "Owner" means the original purchaser of a mobile home for use as a residence.

(2) "Dealer" means any person or business enterprise which sells new mobile homes to consumers.

(3) "Manufacturer" means any person or business enterprise engaged in the business of manufacturing, assembling or distributing on behalf of a manufacturer new mobile homes.

(4) "Wholesaler" means any person other than a manufacturer who sells new mobile homes for the purpose of resale.

(5) "Mobile home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length[~~, and which is built on a permanent chassis~~] and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. *It includes, but is not limited to, structures built on a permanent chassis.*

(6) "Person" means any individual or business enterprise which sells or leases new or used mobile homes.

(7) "Purchase price" means the actual amount paid by the owner, including the value of any traded merchandise involved in the transaction, and any sales or usage tax.

(8)[~~(7)~~] "Defect" is a defective part or material installed, or improper workmanship performed, by a manufacturer, wholesaler, or dealer which poses an imminent danger to the owner's or occupant's health or safety or to the right of occupancy and which would cost the owner more than four percent (4%) of the purchase price to repair or replace.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) After July 15, 1984, no person shall sell or lease a new or used mobile home containing or emitting formaldehyde or any other residential structure insulated with urea formaldehyde foam unless he has made the following written disclosure to the purchaser or lessee:

WARNING

CERTAIN BUILDING MATERIALS USED IN THE CONSTRUCTION OF THIS DWELLING MAY RELEASE FORMALDEHYDE GAS INTO YOUR HOME OVER A LONG PERIOD OF TIME AND CAUSE OR CONTRIBUTE TO ADVERSE HEALTH EFFECTS.

FORMALDEHYDE GAS MAY CAUSE EYE, NOSE, AND THROAT IRRITATION, COUGHING, SHORTNESS OF BREATH, SKIN IRRITATION, NAUSEA, DROWSINESS, HEADACHES, AND DIZZINESS. PEOPLE WITH ASTHMA OR OTHER RESPIRATORY PROBLEMS OR ALLERGIES MAY SUFFER MORE SERIOUS REACTIONS, ESPECIALLY PERSONS ALLERGIC TO FORMALDEHYDE.

PROPER VENTILATION OF YOUR HOME MAY HELP REDUCE THE LEVEL OF FORMALDEHYDE. THEREFORE, PERIODIC AIRING OF YOUR HOME IS RECOMMENDED.

IF YOU HAVE QUESTIONS CONCERNING FORMALDEHYDE, CONTACT THE KENTUCKY CABINET FOR HUMAN RESOURCES. IF YOU HAVE HEALTH PROBLEMS, CONSULT YOUR DOCTOR.

(2) The disclosure shall be made clearly and conspicuously on the label or written warranty of the mobile home in a manner designed to attract the attention of a prospective purchaser or user. If the product or inhabited structure has neither a label nor a written warranty, the disclosure shall be made in a separate writing.

(3) The disclosure is not required if the manufacturer provides a written disclosure which provides essentially the same information set out in subsection (2) of this section, so long as the manufacturer's warning remains affixed to the mobile home or is otherwise provided in writing to the purchaser or lessee.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The secretary for the cabinet for human resources shall collect, publish, and make available for public inspection, data and other information about health problems associated with the chemical formaldehyde which are reported to the cabinet.

Section 4. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the

Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have wilfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) *Any person who fails to provide the written disclosure under Section 2 of this Act shall be guilty of a Class A misdemeanor. Each day of violation shall constitute a separate offense. The county attorney, the attorney general and the department of housing, buildings and construction may prosecute violations of Section 2 of this Act.*

(13) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(14)[~~(13)~~] Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15)[~~(14)~~] A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16)[~~(15)~~] Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(17)[~~(16)~~] Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(18)[~~(17)~~] Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(19)[~~(18)~~] Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20)[~~(19)~~] Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 40** is as follows:

HB 40, AN ACT relating to formaldehyde.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.710 is amended to read as follows:

(1) "Owner" means the original purchaser of a mobile home for use as a residence.

(2) "Dealer" means any person or business enterprise which sells new mobile homes to consumers.

(3) "Manufacturer" means any person or business enterprise engaged in the business of manufacturing, assembling or distributing on behalf of a manufacturer new mobile homes.

(4) "Wholesaler" means any person other than a manufacturer who sells new mobile homes for the purpose of resale.

(5) "Mobile home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length[~~, and which is built on a permanent chassis~~] and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. *It includes, but is not limited to, structures built on a permanent chassis.*

(6) *"Person" means any individual or business enterprise which sells or leases new or used mobile homes or which sells or leases a residential structure insulated with urea formaldehyde foam.*

(7) "Purchase price" means the actual amount paid by the owner, including the value of any traded merchandise involved in the transaction, and any sales or usage tax.

(8)[~~(7)~~] "Defect" is a defective part or material installed, or improper workmanship performed, by a manufacturer, wholesaler, or dealer which poses an imminent danger to the owner's or occupant's health or safety or to the right of occupancy and which would cost the owner more than four percent (4%) of the

purchase price to repair or replace.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) After July 15, 1984, no person shall sell or lease a new or used mobile home containing or emitting formaldehyde or any other residential structure insulated with urea formaldehyde foam unless he has made the following written disclosure to the purchaser or lessee:

WARNING

CERTAIN BUILDING MATERIALS USED IN THE CONSTRUCTION OR INSULATION OF THIS DWELLING MAY RELEASE FORMALDEHYDE GAS INTO YOUR HOME OVER A LONG PERIOD OF TIME AND CAUSE OR CONTRIBUTE TO ADVERSE HEALTH EFFECTS.

FORMALDEHYDE GAS MAY CAUSE EYE, NOSE, AND THROAT IRRITATION, COUGHING, SHORTNESS OF BREATH, SKIN IRRITATION, NAUSEA, DROWSINESS, HEADACHES, AND DIZZINESS. PEOPLE WITH ASTHMA OR OTHER RESPIRATORY PROBLEMS OR ALLERGIES MAY SUFFER MORE SERIOUS REACTIONS, ESPECIALLY PERSONS ALLERGIC TO FORMALDEHYDE.

PROPER VENTILATION OF YOUR HOME MAY HELP REDUCE THE LEVEL OF FORMALDEHYDE. THEREFORE, PERIODIC AIRING OF YOUR HOME IS RECOMMENDED.

IF YOU HAVE QUESTIONS CONCERNING FORMALDEHYDE, CONTACT THE KENTUCKY CABINET FOR HUMAN RESOURCES. IF YOU HAVE HEALTH PROBLEMS, CONSULT YOUR DOCTOR.

(2) The disclosure shall be made clearly and conspicuously on the label or written warranty of the mobile home or on the sales or lease agreement of the residential structure in a manner designed to attract the attention of a prospective purchaser or user. If the product or inhabited structure has neither a label nor a written warranty, the disclosure shall be made in a separate writing.

(3) The disclosure is not required if the manufacturer provides a written disclosure which provides essentially the same information set out in subsection (2) of this section, so long as the manufacturer's warning remains affixed to the mobile home or is otherwise provided in writing to the purchaser or lessee.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The secretary for the cabinet for human resources shall collect, publish, and make available for public inspection, data and other information about health problems associated with the chemical formaldehyde which are reported to the cabinet.

Section 4. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00), nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five

thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have wilfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the attorney general.

(12) *Any person who fails to provide the written disclosure under Section 2 of this Act shall be guilty of a Class A misdemeanor. Each day of violation shall constitute a separate offense. The county attorney, the attorney general and the department of housing, buildings and construction may prosecute violations of Section 2 of this Act.*

(13) Any person who violates KRS 367.805, 367.809(2), 367.811 or 367.813(1) shall be guilty of a Class C felony.

(14)[~~(13)~~] Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15)[~~(14)~~] A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16)[~~(15)~~] Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(17)[~~(16)~~] Any person, partnership or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25.00) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(18)[~~(17)~~] Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(19)[~~(18)~~] Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20)[~~(19)~~] Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

HB 217, AN ACT relating to blood and blood products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) Any person seventeen (17) years of age or older may donate blood, if the donation is voluntary, without the necessity of obtaining the permission or authorization of his parent or guardian.

(2) No donation shall be construed to be involuntary within the meaning of this section solely because the donor receives a right to any lawful preference or special treatment of any kind in receiving blood or blood products in return for his donation.

The Committee Amendment No. 1 to **HB 217** is as follows:

Amend printed copy of **HB 217** on page 1, line 3, by deleting the following: "(1)"; and beginning on line 7 and ending on line 11, by deleting subsection (2) in its entirety.

The Committee on Judiciary-Civil reported **HB 3** and **HB 147** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him, or require or accept any waiver by a worker of any right hereunder.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary or his representatives. Any worker claiming benefits in any proceeding before the commission *may represent himself* or [~~a court~~] may be represented by counsel or other *agent* duly authorized *by such worker and shall be afforded the opportunity to participate in the proceeding without restriction* [~~agent~~]; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) *(a) Any employer in any proceeding before the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer. (b) Any person appearing in any proceeding before the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.*

(4) No assignment, pledge or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5)[~~(4)~~] The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392.

Section 2. KRS 524.130 is amended to read as follows:

(1) Except as provided in *KRS 341.470 and* subsection (2) *of this section*, a person is guilty of unlawful practice of law when, without a license issued by the Supreme Court, he engages in the practice of law, as defined by rule of the Supreme Court.

(2) A licensed nonresident attorney in good standing, although not licensed in Kentucky, is not guilty of unlawful practice if, in accordance with rules adopted by the Supreme Court, he practices law under specific authorization of a court.

(3) Unlawful practice of law is a Class B misdemeanor.

HB 147, AN ACT relating to fiducial and judicial sales of realty.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 389A.030 is amended to read as follows:

(1) When two (2) or more persons other than tenants by the entirety in residential property actually occupied by them as a principal residence share title to real estate in such manner that a conveyance by them jointly would pass a fee simple title, any one or more of them may bring an action for the sale or division thereof in the circuit court of the county in which the land, or the greater part thereof, lies, making parties defendant those owners who have not joined as plaintiffs. A fiduciary possessing a power of sale may institute such an action against owners of interests not represented by him. Defendant owners shall be brought before the court in the manner provided by the civil rules whether or not a fiduciary possesses a power of sale of the defendant's interest, but any fiduciary possessing such a power shall also be made a defendant. The case shall be tried without a jury.

(2) A defendant who is under disability and for whom no fiduciary is acting shall be represented in the action by a guardian ad litem, but in the event of sale of such defendant's interest the court shall retain

control of the proceeds of such interest until a duly appointed and adequately bonded fiduciary or custodian pursuant to a court order makes claim to the funds.

(3) In all such actions indivisibility of the real estate shall be presumed unless an issue in respect thereto is raised by the pleading of any party, and if the court is satisfied from the evidence that the property is divisible, without materially impairing the value of any interest therein, division thereof pursuant to KRS 381.135 shall be ordered.

(4) If a sale of all or any part of the real estate shall be ordered, the court shall refer the matter to the master commissioner or appoint a commissioner to conduct a public sale and convey the property upon terms of sale and disposition of the net proceeds as may have been determined by the court *or the court may authorize the fiduciary to make the sale privately and convey title.*

(5) The death of any party pending the action and prior to distribution of the proceeds of sale or setting apart a divisible share shall not affect the action but the court may direct distribution or apportionment to the successors in interest of the decedent upon application therefor.

(6) If the interest of any party be one for life, or other term, in any portion of the real estate, the court shall determine the value of such interest and direct that such party receive a portion of the net sale proceeds or portion of the property if divisible, in fee in satisfaction of such interest, but if any party to the action objects to such procedure, and if the court finds that such procedure would defeat the objects and purpose of a person not a party to the action, such as a testator, grantor or settlor, but that sale or division is nevertheless desirable, the court shall order that the interest of the life or term tenant shall continue as to his portion of the real estate or the net proceeds of the sale thereof, in the latter case by directing that the funds derived from the sale of that portion of the real estate in which the life or term interest existed be paid to a trustee, appointed by and accountable to the district court, for reinvestment and distribution of income and principal in a manner consistent with the instrument under which the life or term estate was created.

The Committee Substitute to **HB 147** is as follows:

HB 147, AN ACT relating to fiducial and judicial sales of realty.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 389A IS CREATED TO READ AS FOLLOWS:

Without previous judicial proceeding or judgment, an interest in real property held by a fiduciary for the benefit of a ward, or by more than one (1) person or by an unknown heir may be sold by private sale subject to court approval. An action for approval of sale shall be brought in the manner provided for judicial approval prior to sale in KRS 389A.030 and 389A.035.

Section 2. Whereas, the right of the court to authorize a private sale of realty in the case of a fiducial or judicial sale of realty, was inadvertently deleted from the statutes by the 1982 Regular Session of the General Assembly, and whereas the absence of the right to do so has created a hardship, an emergency is declared to exist and this Act shall become effective immediately upon passage and approval by the governor.

The Committee on State Government reported **HB 1,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

It is the policy of the Commonwealth that all bills shall be paid on time.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

A "purchasing agency" is any state organizational unit or administrative body as defined in KRS 12.010 that actually receives goods or services from a vendor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

All bills shall be paid within twenty-five (25) working days of receipt of a vendor's invoice except when payment is delayed because the purchasing agency has made a written disapproval of improper performances or improper invoicing by the vendor or by the vendor's subcontractor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

An interest penalty of one percent (1%) of any amount approved and unpaid shall be added to the amount approved for each month or fraction thereof after the twenty-five (25) working days which followed receipt of the vendor's invoice by a purchasing agency.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

A purchasing agency shall transmit a vendor's approved invoice with required documentation to the Finance and Administration Cabinet within ten (10) working days of receipt of the invoice by the purchasing agency.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall transmit a warrant for payment to the Department of the Treasury within ten (10) working days of receipt of a vendor's approved invoice by the Finance and Administration Cabinet from a purchasing agency. In those cases in which the Finance and Administration Cabinet is the purchasing agency, the Cabinet shall transmit a warrant for payment to the Department of the Treasury within twenty (20) working days of receipt of a vendor's approved invoice.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The Department of the Treasury shall transmit a check for payment to a vendor within five (5) working days of receipt of a warrant for payment from the Finance and Administration Cabinet.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The interest penalty imposed by Section 4 of this Act shall be paid from monies already appropriated to the operating budget of the agency whose violation of Sections 5, 6 or 7 of this Act caused the violation of Section 3 of this Act. No agency shall budget money for the purpose of paying interest penalties. If the violation of Section 3 of this Act is caused by two (2) or more agencies, including the Department of the Treasury and the Finance and Administration Cabinet, the cost of the penalty shall be pro-rated among the agencies on the basis of the number of days that each agency violated this Act.

The Committee Amendment No. 1 to **HB 1** is as follows:

Amend printed copy of **HB 1**, page 1, line 12, by deleting the word and parenthetical number, "*twenty-five (25)*, and inserting in its place "*thirty (30)*";

Page 2, line 2, by deleting the word and parenthetical number, "*twenty-five (25)*" and inserting in its place "*thirty (30)*";

Page 3, line 1, by adding the following: *The purchasing agency shall mail a check for payment to a vendor within five (5) working days of receipt of the check from the department of the treasury.*"

Calendar

HJR 13, HB 7, HB 9, HB 22, HB 278, and **HB 45** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 73 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members present.

Representative Rapier moved that **HB 73** be passed.

On the roll call the vote was yeas: 61-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Caldwell, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Dawahare, Donnermeyer, Dunn, Endicott, Freibert, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, Meyer, Moberly, Nett, Noland, O'Brien, Overstreet, Petty, Priddy, Rapier, Richards, P. Richardson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Yates. Nays: 27-Allen, Bruce, Clapp, Curd, Cyrus, Deskins, Ellington, Farrow, Ford, Foster, Fryman, Gray, Layman, Lefevers, Little, Maggard, McNutt, Moore, Morris, Noe, Perkins, Rattliff, Robinson, B. Smith, Todd, White, Worthington.

HB 73 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 73** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 120, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 120**. Agreed.

Representative Long moved that **HB 120**, as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 120, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 120**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Foster moved the adoption of the following Legislative Citation No. 3:

The House of Representatives of the Commonwealth of Kentucky hereby extends its most sincere congratulations to Mr. Joseph J. White on your one hundred and second birthday, January 19, 1984. Born in 1882 to John and Sara Elizabeth White, Mr. White has been a lifetime native and farmer of Logan County, Kentucky. To surpass the century mark is a blessed privilege and distinct honor. Your unselfish and life-long devotion to your church, community, family and friends has been a source of inspiration and joy to all that have known you, "Joe Buck," as you have been so affectionately nicknamed. Your two children, five grandchildren, thirteen great grandchildren, twelve great-great grandchildren and a host of friends join the members of this body in saluting you and extending to you our sincere best wishes for continued health and happiness in the years to come. (Sponsored by Representative Foster.)

Agreed.

Representative F. Smith moved the adoption of the following Legislative Citation No. 4:

The House of Representatives of the Commonwealth of Kentucky hereby commends Louise C. Bischoff for her outstanding service and achievements in the planning, promoting and participating in the Kentucky Area Horse Shows. Mrs. Bischoff's humanitarian and benovelent spirit is admirably reflected in her public service demonstrated through her involvement in forming the Bullitt County Fair Board in 1975, of which she served as secretary for two years. The Kentucky Association of Fairs and Horse Shows has presented Mrs. Bischoff the Championship Award, to exemplify their immense appreciation for her unlimited hours of service rendered by untiring efforts for this group.

Mrs. Bischoff's accomplishments go far beyond her involvement with the Horse Shows. Her impeccable record as a civil leader, foster parent, wife and teacher is most impresive. Her dedication to the teaching profession is indicative of her forty-five years spent as a classroom teacher, beginning in a one room school house at Mt. Elmira in Bullitt County, Kentucky.

This prestigious body salutes Mrs. Bischoff for her dedication and contribution to the Kentucky Area Horse Shows and applauds her with profound appreciation for her most noteworthy endeavors to her community. (Sponsored by Representative F. Smith.)

Agreed.

Representative Guenthner moved that **HB 188** be withdrawn.

Agreed.

A meeting of the Rules Committee was announced on adjournment in the State Reception Room.

A meeting of the Committee Chairmen was announced for today, 3:00 p.m., Room 103.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 40,** by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 40** on page 2, line 5, by inserting after the word "*structure*" the following: "*that has been*";

and on line 6, by inserting afer the word "*foam*" the following: "*within the last three (3) years prior to the lease or sale*";

and on line 22, by inserting after the word "*structure*" the following: "*that has been*";

and on line 23, by inserting after the word "*foam*" the following: "*within the last three (3) years prior to the lease or sale.*"

Floor Amendment No. 2 to **HB 42,** by Representative Holbrook:

Amend printed copy of **HB 42** on as follows:

On page 4, line 1, after the word "provide" delete the remainder of the subsection and insert in lieu thereof the following:

to the insured and the department of vehicle regulation notice of such cancellation within thirty (30) days thereof.

On page 10, after line 17, add new subsection:

(d) No owner of any vehicle who shall have in full force and effect the security required by subtitle 39 of KRS Chapter 304 prior to voluntary cancellation of a prior contract of insurance, and no owner of any vehicle who shall have in full force and effect the security required by subtitle 39 of KRS Chapter 304 within ten (10) days of cancellation of any contract of insurance by an authorized insurance company shall be deemed to be in violation of this Act.

Representative LeMaster moved that the rules be suspended for introduction of Bills and Resolutions and Report of Committees. Agreed.

INTRODUCTION OF BILLS AND RESOLUTIONS

HB 332, by Representative Morris, Bruce, Endicott, Long, Pearman, Clapp: AN ACT relating to motor fuels taxes.

HB 333, by Representative Thomason: AN ACT relating to rural electric cooperative corporations and declaring an emergency.

HB 334, by Representative Brinkley, LeMaster, B. Richardson: AN ACT relating to administrative regulations.

HB 335, by Representative Cyrus, Little, Stone, Perkins, Deskins: AN ACT relating to workers' compensation.

HB 336, by Representative Cowan: AN ACT relating to educational technology.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 273, HB 291, SB 38.**

Announcements

Representative Craddock announced budget review meeting of the Committee on Natural Resources and Environment for tomorrow has been cancelled.

The Chairman announced a meeting of the Committee on Education for tomorrow, 10:00 a.m., Room 109.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, January 12, 1984.

On the roll call the vote was, yeas: 73-Allen, Arnold, Barrows, Bendl, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, P. Clarke, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Foster, Freibert, Guenthner, Hancock, Handy, Head, Hines, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 13-Bennett, Deskins, Endicott, Fryman, Heleringer, Holbrook, LeMaster, Lile, Maggard, Moore, Overstreet, Perkins, Williams.

The motion to adjourn was adopted.

THURSDAY, JANUARY 12, 1984

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Father James Gerrety, Christ the King Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of January 11, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 337, by Representative Seum: AN ACT relating to cigarette dealers.
HB 338, by Representative Stumbo: AN ACT relating to insurance premium taxes.
HB 339, by Representative Farrow: AN ACT relating to county offfices.

HB 340, by Representatives Lundergan, Crupper: AN ACT relating to sales and use tax.

HB 341, by Representatives Rattliff, Clapp: ANACT relating to crimes and punishments.

HB 342, by Representatives Stumbo, Perkins: AN ACT relating to the railroad commission.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 332.**

Banking and Insurance: **HB 327, HB 328.**

Cities: **HB 324, HB 326.**

Education: **HB 317, HB 318, HB 320, HB 321, HB 336.**

Energy: **HB 329, HB 333.**

Health and Welfare: **HB 319.**

Judiciary-Civil: **HB 322.**

Labor and Industry: **HB 323, HB 335.**

Natural Resources and Environment: **HB 330, HB 331, HJR 25.**

State Government: **HB 334.**

Transportation: **HB 325.**

Report of Committees

The Committee on Rules reported **HB 7, HB 9, HB 278,** and **HJR 13** have been posted for passage in Orders of the Day, January 13, 1983.

The Committee on Banking and Insurance reported **HB 293** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 293, AN ACT relating to pre-need funeral contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 316.310 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 367 AND AMENDED TO READ AS FOLLOWS:

As used in *this Act* [~~KRS 316.310 to 316.370 and 316.991~~], unless the context requires otherwise:

(1) *"Attorney general" means division of consumer protection in the office of the attorney general* [~~"Department" means the department of banking and securities~~].

(2) "Financial institution" means a bank, trust company, *federally chartered credit union,* or savings and loan association authorized by law to do business in this state.

(3) "Pre-need burial contract" means a contract, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person whose body is to be disposed of; but does not mean the furnishing of a cemetery lot or mausoleum.

(4) "Agent" means the licensee who is the person, partnership, association or corporation receiving any payments on a pre-need funeral contract.

(5) "Trustee" means the financial institution.

SECTION 2. KRS 316.320 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 367 AND AMENDED TO READ AS FOLLOWS:

(1) All payments of money made to any person, partnership, association or corporation upon any agreement or contract, or any series or combination of agreements or contracts, but not including the furnishing of cemetery lots or mausoleums, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person whose body is to be disposed of, are held to be trust funds. The person, partnership, association or corporation receiving the payments is declared to be *the agent* [~~a trustee~~] thereof, and shall deposit all payments in a trust account with a bank or trust company or invest said payments in a savings and loan association *or federally chartered credit union. The trustee shall be the financial institution holding said funds.* All of the interest, dividends, increases or accretions of whatever nature earned by the funds deposited in a trust account shall remain with the principal of such account and become a part thereof, subject to all of the regulations concerning the principal of said fund herein contained. *The agent shall have the authority at any time to transfer or redesignate the trustee of said funds in his discretion upon notification to the attorney general. In case of any transfer, the former trustee shall transfer funds directly to and payable to the newly designated trustee or its representative.*

(2) All payments made *to the agent* under the agreement, contract or plan are and shall remain trust funds with the financial institution until the death of the person for whose service the funds were paid and until the delivery of all merchandise and full performance of all services called for by the agreement, contract or plan, except where payment is made pursuant to *a request for refund* [~~KRS 316.330~~].

(3) The funds shall not be paid by the financial institution until a certified statement is furnished to the financial institution *by the agent* setting forth that all of the terms and conditions of the agreement have been fully performed by the person, association, partnership, firm or corporation. Any balance remaining in the fund after payment for the merchandise and services as set forth in the agreement, contract or plan shall be paid to the estate of the beneficiary of the agreement, contract or plan.

(4) Subsection (1) of this section does not apply to contracts for funeral service or merchandise sold as burial insurance policies which are regulated by the department of insurance of this state.

SECTION 3. KRS 316.330 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 367 AND AMENDED TO READ AS FOLLOWS:

(1) Upon the giving of fifteen (15) days' written notice, *sent to the agent and the trustee,* any person, partnership, or corporation who has paid funds for a pre-need funeral service may demand a refund of the entire amount actually paid, together with all interest, dividends, increases or accretions, of any kind whatsoever, which have been earned on such funds. *If the trustee is unknown, the written notice sent to the agent shall constitute compliance with this section. Upon receipt of notice, the agent shall immediately forward notice to the trustee.*

(2) The financial institutions shall be relieved from further liability, after making payment to the

person making payment of said funds, to the *agent* [~~trustee~~] upon receipt of the foregoing written notice. Notice of payment of funds under this section shall be given by the financial institution to the *agent* [~~trustee~~].

(3) The trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of this Act, and shall not be liable to any person for such reliance.

SECTION 4. KRS 316.340 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 367 AND AMENDED TO READ AS FOLLOWS:

(1) All trust funds mentioned in *this Act* [~~KRS 316.310 to 316.370 and 316.991~~] shall be deposited in the name of the *agent, with the financial institution* [~~trustee~~], as trustee, within thirty (30) days after receipt thereof, with a bank or trust company or invested in a savings and loan association and shall be held together with the interest, dividends, or accretions thereon, in trust, subject to the provisions of *this Act* [~~KRS 316.310 to 316.370 and 316.991~~]. The *agent* [~~trustee~~] at the time of making deposit or investment shall furnish to the financial institution the name of each payor, and the amount of payment on each account for which the deposit or investment is being made.

(2) Deposits to such funds and the amounts deposited may be commingled, but the accounting records shall establish a separate account for each prepaid contract and shall show amounts deposited and the income and loss occurring thereon with respect to each contract.

SECTION 5. KRS 316.350 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 367 AND AMENDED TO READ AS FOLLOWS:

(1) *Every person, firm, partnership, association or corporation shall obtain an agent license from the attorney general at least thirty (30) days prior to offering for sale any pre-need burial contract or accepting any monies on pre-need burial contracts. Every* [~~No~~] person, firm, partnership, association or corporation *in existence as of the effective date of this Act accepts* [~~may, without first securing from the department a license, accept and/~~] or *holds* [~~hold~~] payments made on pre-need burial contracts, except financial institutions as defined in *this Act, shall apply for an agent license from the attorney general within one hundred eighty (180) days thereafter* [~~subsection (2) of KRS 316.310~~]. Application for a license shall be in writing, signed by the applicant and duly verified on forms furnished by the *attorney general* [~~department~~]. Each application shall contain at least the following:

The full name and address (both residence and place of business) of the applicant, and every member, officer and director thereof if the applicant is a firm, partnership, association or corporation. Any license issued pursuant to the application shall be valid only at the address stated in the application for the applicant or at a new address approved by the *attorney general* [~~department~~].

(2) Upon receipt of the application and payment of a license fee of *fifty dollars ($50)* [~~$25.00~~] the *attorney general* [~~department~~] shall issue a license unless they determine that the applicant has made false statements or representations in the application, or is insolvent, or has conducted, or is about to conduct his business in a fraudulent manner, or is not duly authorized to transact business in this state. *Applicants who hold a valid license issued by the department of banking and securities shall not be required to pay a license fee or make initial application with the attorney general.*

(3) Any person selling a pre-need funeral service contract shall collect from each purchaser a service charge of *five dollars ($5) made payable to the office of the attorney general* [~~two dollars ($2.00)~~], and all of which fees so collected shall be remitted by the person collecting same to the *attorney general* [~~department of banking and securities~~] at least once each month, and such funds shall be used by the *attorney general* [~~department~~] in administering *this Act* [~~KRS 316.310 to 316.370 and 316.991~~].

(4) Every licensee shall file an annual report on a form provided by the attorney general containing information as the attorney general may require, but at least the following: an itemized list of all pre-need burial contracts sold within the last twelve (12) months, the monies collected on said contracts, the total amount deposited in the pre-need funeral trust fund account and the location and account numbers of said trust funds.

(5) Every such report shall be verified by the agent and shall be attested to by the accountant, auditor, or other person preparing the same.

(6) Such reports shall not be available to the general public and shall be used only for the lawful purpose of the attorney general's office.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Every licensee shall keep and maintain adequate records including but not limited to the following:

(a) A cash receipts journal, listing monies received in chronological order, dates, and amounts received, and identification of the payor or purchaser;

(b) A cash disbursement journal, containing the same information for monies disbursed. If a separate bank account is kept exclusively for any such funds, the checkbook could be used as a cash disbursement journal;

(c) A "reconciliation," done at least once every twelve (12) months. The reconciliation shall indicate the beginning balance in the trust account, payments received during the period, interest earned during the

period, disbursements on either cancellation or the death of the beneficiary, and the ending balance for the period. The ending balance for each period is determined as follows:

Beginning Balance
+ Payments received
+ Interests
- Disbursements
Ending Balance

(d) Documentation files, supporting the reconciliation and containing the pre-need burial contract. Each file, consisting of a separate file for each contract, should include the name and address of the purchaser, the beneficiary, and the financial institution in which the trust funds were deposited. Passbooks, certificates, and other evidence of the account with the financial institution should be kept with the individual files, depending on the safety and security of the files.

(2) All sales, trust fund and accounting records of the agent licensee shall be readily available at the agent's principal place of business in this state at reasonable times for examination by an authorized representative of the attorney general's office.

(3) The necessary expenses of any examination made pursuant to this section shall be paid by the licensee, but in no case shall the attorney general or his authorized representatives be paid more than the actual expenses of such examination not to exceed the lesser of the following amounts: seventy-five dollars ($75) per day for each auditor or five dollars ($5) for each agent's sales contract examined. The agent may pay for this expense using interest monies which have accrued on the agent's existing pre-need funeral trust fund accounts. Any withdrawal of interest for this purpose shall be taken as a pro rata share of all of the agent's existing pre-need funeral trust fund accounts. The attorney general shall be advised in writing by the agent when interest monies is the source of payment and shall receive written certification from the financial institution or agent that the withdrawal was a pro rata share.

(4) This section shall apply to examinations of all pre-need funeral contracts whether entered into prior to or after the effective date of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) The attorney general's office may hire a special independent auditor of choice to do a complete audit of books as to contracts entered into both prior to and after the effective date of this Act to determine compliance with the pre-need funeral laws, if the attorney general determines any discrepancy as a result of an examination by his office.

(2) In any action brought under this chapter in which the Commonwealth prevails, the court shall award cost incurred by the attorney general for the special independent auditor.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any provision of a contract which purports to waive any provision of this Act shall be null and void.

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A sale of any business that has sold pre-need burial contracts or any part thereof or of any related property to a purchaser, is subject to the following conditions:

(1) The purchaser is liable for any shortages existing before or after the sale in the pre-need funeral trust fund accounts; and

(2) The purchaser shall perform all obligations imposed under this chapter and all obligations imposed under contracts made by the selling business or any prior owner relating to the sale of a pre-need funeral contract, except the sale of burial rights, funeral services, or merchandise to a person for his or her personal or family funeral, burial or interment.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Failure to comply with any of the provisions of this Act shall make the owners or shareholders of an agent personally liable, jointly and severally, for the deficiency existing in the trust funds and for any other civil remedy allowed by law.

(2) In addition to the liabilities declared, the litigant who brings suit and recovers from an owner or shareholder of an agent shall also recover his reasonable attorney's fees, the amount of same to be fixed and adjudged by the court before whom the case is tried.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All of the remedies, powers, and the duties provided for the attorney general by KRS 367.190 to 367.300 and 367.990 pertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by this Act and the pre-need funeral laws existing prior to this Act.

(2) Nothing in this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the attorney general which he is authorized to exercise or perform under any

other provision of law. The attorney general has the power to establish such rules and regulations as are necessary to carry out these provisions.

SECTION 12. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any person or corporation who violates the trust provision found in this chapter shall be guilty of a Class C felony. Each violation of any trust provision of this chapter shall be deemed a separate offense. Either the attorney general or the appropriate commonwealth's attorney may prosecute violators.

Section 13. KRS 287.485 is amended to read as follows:

All fees collected and paid into the state treasury under the provisions of KRS Chapters 287, 288, 289, 290, 291, 292, 294, 307, *and* 366 [~~and 316.010 to 316.070~~] shall be credited to a revolving trust or agency fund account, as provided in KRS 45.140, for the department of banking and securities and shall be separately accounted for and shall be used solely for the administration and enforcement of said KRS chapters.

SECTION 14. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

All fees and charges collected and paid into the state treasury under the provisions of this Act shall be credited to a revolving trust or agency fund account for the attorney general and shall be used for the administration of this Act.

Section 15. The following KRS sections are repealed:

316.360 Records of licensee, requirements -- Inspection.
316.370 Department of banking and securities to enforce law -- Rules and regulations.
316.991 Violations, penalty.

The Committee on Education reported **HB 19**, with Committee Amendment attached thereto, and **HB 122** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19, AN ACT relating to compulsory attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030, each parent, guardian or other person residing in the state and having in custody or charge any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.

(2) A child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or non-public education prior to graduating from high school shall do so only after written signed permission for withdrawal has been received from his parent, guardian or other person residing in the state and having custody or charge of him. The written permission shall be dated and the signature witnessed by the principal of the school where the child is in attendance. A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

The Committee Amendment No. 1 to **HB 19** is as follows:

Amend printed copy of **HB 19**, page 1, line 14, by inserting the following after "(2)": "*An unmarried*" and deleting the "A."

HB 122, AN ACT relating to certification of school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.025 is amended to read as follows:

(1) There shall be a Kentucky council on teacher education and certification whose members shall be appointed by the superintendent of public instruction as follows:

(a) The dean or department head for education from each of the state universities and state senior colleges;

(b) Three (3) academic deans from the private senior colleges and universities selected so that representation shall be rotated among the private institutions;

(c) Fourteen (14) members, selected from nominees submitted by those professional organizations designated by the superintendent of public instruction as being most representative of the professional members to be appointed, to be nominated and selected in a manner to provide geographic representation, to include:

1. Two (2) members, who at the time of appointment shall hold the positions of local school superintendent,
2. Three (3) members, who at the time of appointment shall hold administrative or supporting personnel positions in which the major duties are other than classroom teaching,
3. Nine (9) members, who at the time of appointment shall hold positions as classroom teachers;

(d) One (1) member to be selected from a list of nominees submitted by the governing body of the Kentucky school boards association;

(e) One (1) member to be selected from a list of nominees submitted by the governing body of the Kentucky branch national congress of parents and teachers;

(f) Two (2) members selected at large;

(g) One (1) member from the department of education representing teacher education and certification, who shall serve as executive secretary;

(h) One (1) member from the *bureau of vocational* [~~department for occupational~~] education;

(i) Two (2) members, who at the time of appointment, shall hold positions in occupational education.

(2) Each individual appointment shall be for a period of four (4) years except that one-half (1/2) of the initial appointments shall be for two (2) year terms. Members may serve successive terms if renominated and re-appointed in the manner prescribed for membership. Vacancies shall be filled as they occur in a manner consistent with the provisions for initial appointments.

(3) At the first meeting held on or after July 1 of each year a chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary shall keep records of proceedings and shall prepare the approved recommendations for transmission to the superintendent of public instruction, the state board of education, and other appropriate agencies. Regular meetings shall be held at least biannually on call by the chairman.

(4) The Kentucky council on teacher education and certification shall develop and recommend policies and standards relating to teacher preparation and certification including: The requirements for the preparation and certification of teachers and other professional school personnel; the standards and procedures for the approval of college and university programs for the preparation of teachers and other professional school personnel.

(5) *In order to be admitted to the teacher education program, the applicant must have earned an overall grade point average on college work of no less than 2.5 on a 4.0 scale. In addition, the applicant must score at or above an established cutoff point on a test of basic skills in reading, math, and written communications. The test to be administered to all teacher education candidates and the required level of competency shall be determined by the council on teacher education and certification. Admission to student teaching shall require an overall grade point of no less than 2.75 on a 4.0 scale.*

(6) To carry on the functions relating to its duties and responsibilities the Kentucky council on teacher education and certification is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences and publish information.

The Committee on Energy reported **HB 38** and **HB 158** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 38, AN ACT relating to income taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

As used in Section 2 of this Act, "qualifying energy property" means property used to generate power from solar radiation, wind, or geothermal energy. The term includes the components of active solar systems, *passive solar systems, wind energy systems and geothermal energy systems, as defined in subsections (1) through (4) of this section.*

(1) "Active solar system" means a system of equipment capable of collecting and converting solar radiation into thermal, mechanical or electrical energy, and of transferring these forms of energy to storage or the point of use. It includes water heating, space heating or cooling, and the generation of electrical or mechanical energy. Transfer or storage components are included, except for those which would be required regardless of the energy source being used.

(2) "Passive solar system" means a direct thermal system which utilizes the structure of a building and its operable components to collect, store and distribute heating or cooling during the appropriate times of the year, by utilizing the climate resources available at the site. It includes those portions or components of a building that are expressly designed and required for the collection, storage and distribution of solar energy. Structural components of a building which also are used as part of the energy system, such as supporting walls used also for heat storage, are included only if and to the extent that their cost exceeds that of conventional construction. Multi-purpose components shall include but not be limited to windows or attached greenhouses, if designed as part of a solar system and if south facing. Multi-purpose components shall be included for half of their cost.

(3) "Wind energy system" means a system of equipment capable of intercepting and converting wind energy into mechanical or electrical energy and of transferring these forms of energy to the point of use or storage. It does not include those storage or transfer components which would be required regardless of the energy source being used. Wind equipment used to produce power for transportation is excluded.

(4) "Geothermal energy system" means a system of equipment necessary to transmit or use natural heat from the earth to provide hot water, produce electricity or generate heating or cooling for use within a building. This includes hydrothermal energy systems. It does not include those storage or transfer components which would be required regardless of the energy source being used.

SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed as a credit against the taxes imposed by KRS 141.020 and 141.040 an amount equal to fifteen percent (15%) of the expenditures (including installation cost, but excluding any finance charges) for qualifying energy property installed on premises in Kentucky which are owned or controlled by the taxpayer. The maximum credit which may be claimed by any taxpayer shall be fifteen hundred dollars ($1,500) during the period specified in subsection (13) of this section. In no case shall a system or component or piece of equipment be eligible more than once for the credit provided in this section.

(2) The credit in this section may be claimed for the taxable year in which the installation is completed. The credit may be claimed only for expenditures made during the taxable year for which the credit is claimed or during the immediately preceding taxable year, but in no case for expenditures made before January 1, 1983.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either, or divided equally, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(4) In the case of a partnership, of which one or more of the partners are liable for the tax imposed under KRS 141.020, the amount of the credit each partner may claim shall be allocated in the same ratio as profits and losses are shared in the partnership, but the combined credit shall not exceed fifteen hundred dollars ($1,500).

(5) A builder who installs qualifying energy property in a building constructed for resale may elect himself to claim the credit allowed in this section, or may provide the purchaser with necessary documentation or certification so that the purchaser may claim the credit. In no case, however, shall the credit be claimed by both the builder and the purchaser.

(6) In the case where the credit allowed in this section exceeds the tax due for the taxable year, that portion of the credit which exceeds the tax due may be carried over to the succeeding taxable years until the allowable credit has been fully exhausted, or until the credit has been claimed for three (3) successive years, whichever comes first.

(7) This tax credit shall not apply to trusts or estates.

(8) Before any tax credit can be claimed under the provisions of this section, the energy cabinet must certify that the taxpayer's system is a viable system for using solar, wind or geothermal energy and documentation must be provided that the system has been completely installed. Any fee charged by the energy cabinet for review and certification of a system shall not exceed ten dollars ($10.00).

(9) The energy cabinet may promulgate such rules and regulations as necessary to maintain commonly accepted energy equipment standards, to effectively conform to the definition of qualifying energy property in Section 1 of this Act and to administer the certification requirements in this section. The regulations (including those describing the application procedure) shall be written in nontechnical language understandable to lay citizens untrained in engineering, architecture, or other technical fields.

(10) With the exception of the certification requirements delegated to the energy cabinet by this section, the department may promulgate such rules and regulations as necessary to effectively administer the

requirements of this Act.

(11) All regulations necessary to implement this Act shall be filed with the legislative research commission in accordance with KRS 13.087 by September 1, 1984.

(12) The department shall report as to the impact of this Act to the 1986 General Assembly and to the appropriate interim committee preceding the 1986 General Assembly. Such report shall include the number and amount of the qualifying energy credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the department deems pertinent to an analysis of this Act.

(13) The provisions of this Act shall apply to the taxable years beginning on or after January 1, 1984, and ending on or before December 31, 1986, and no credit shall be allowed for any taxable year ending after December 31, 1986.

HB 158, AN ACT relating to nuclear power facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Nuclear power facility" or "nuclear facility" means a nuclear fission thermal power plant;

(2) "High level nuclear wastes" means the aqueous wastes resulting from the operation of the first cycle of the solvent extraction system or equivalent and the concentrated wastes of the subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel. High level nuclear wastes shall include spent fuel assemblies prior to fuel reprocessing;

(3) "Certify" means to issue a certificate of public convenience and necessity under KRS 278.020;

(4) "Technology or means for the disposal of high-level nuclear waste" means a method for the permanent and terminal disposal of high-level nuclear waste. Such disposition shall not necessarily preclude the possibility of an approved process for retrieval of such waste.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

No construction shall commence on a nuclear power facility in the Commonwealth until the public service commission finds that the United States government, through its authorized agency, has identified and approved a demonstrable technology or means for the disposal of high level nuclear waste.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

If the requirements of Section 2 of this Act have been met, the public service commission may certify a nuclear power facility if it finds that:

(1) Specific facilities with adequate capacity to contain high-level nuclear waste are in actual operation, or will be in operation at the time the nuclear power facility being certified requires the means for the disposal of high-level nuclear waste;

(2) The plan for disposal of high level nuclear waste for the nuclear facility to be certified is in full conformity with the technology approved by the authorized agency of the United States government; and

(3) The cost of disposal of high level nuclear waste from the nuclear facility to be certified is known with reasonable certainty, such that an accurate economic assessment of the proposal can be completed.

The Committee on Judiciary-Criminal reported **HB 187** and **HB 225,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 187, AN ACT relating to theft and related offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.030 is amended to read as follows:

(1) A person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is *$500* [~~$100~~] or more, in which case it is a Class D felony.

Section 2. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is *$500* [~~$100~~] or more, in which case it is a Class D felony.

Section 3. KRS 514.050 is amended to read as follows:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is a Class A misdemeanor unless the value of the property is *$500* [~~$100~~] or more, in which case it is a Class D felony.

Section 4. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in such manner as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of such utility,

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through such meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is *five hundred dollars ($500)* [~~one hundred dollars ($100)~~] or more, in which case it is a Class D felony.

Section 5. KRS 514.070 is amended to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employe of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

1. He fails to account or pay upon lawful demand; or

2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is *$500* [~~$100~~] or more, in which case it is a Class D felony.

Section 6. KRS 514.080 is amended to read as follows:

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense; or

(b) Accuse anyone of a criminal offense; or

(c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(d) Use wrongfully his position as a public officer or servant or employe by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in such manner as to affect some person adversely; or

(e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is *$500* [~~$100~~] or more, in which case it is a Class D felony.

Section 7. KRS 514.090 is amended to read as follows:

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal.

(3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is *$500* [~~$100~~] or more, in which case it is a Class D felony.

Section 8. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is *$500* [~~$100~~] or more, in which case it is a Class D felony.

Section 9. KRS 514.120 is amended to read as follow:

(1) A person is guilty of obscuring the identity of a machine or other property when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes upon any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) with intent to render it or other property unidentifiable; or

(b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) knowing that the serial number or other identification number or mark including property marked with a social security number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Kentucky state police, through any law enforcement agency in the county of his residence, for assignment of a number for the property providing he can show that he is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200 and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200 and 500.090 then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.

(4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is *five hundred dollars ($500)* [~~one hundred dollars ($100)~~] or more, in which case it is a Class D felony.

HB 225, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 517 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of deceptive repair practices when, in the course of engaging in a business, occupation, or profession he:

(a) Underestimates the cost to repair any item with the intent to induce its repair by him or by an associate;

(b) Falsely represents the nature or extent of the repair required;

(c) Makes a billing for a repair which he has not in fact done or caused to be done; or

(d) Utilizes used or remanufactured parts to repair the item under repair without the knowledge and consent of the customer.

(2) Deceptive repair practices is a Class A misdemeanor unless the charges for the repair, including parts, labor, and other charges, are one hundred dollars ($100) or more, in which case it is a Class D felony.

The Committee Amendment No. 1 to **HB 225** is as follows:

Amend printed copy of **HB 225**, on page 1, line 18, below line 19, by adding the following:

"*(3) It is not a defense under subsection (1) of this section if the acused engages in the proscribed activities under this section as a result of any law enforcement activity.*"

The Committee Amendment No. 2 to **HB 225** is as follows:

Amend printed copy of **HB 225** on page 1, line 18, to delete "*one*" and to insert in lieu there of "*five*"; and on page 1, line 19 to delete "*($100)*" and to insert in lieu thereof "*($500)*".

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 14, HB 25, HB 167, HB 259, HB 261.**

Transportation: **HB 17, HB 46, HB 286.**

Business Organizations and Professions: **HB 53, HB 52, HB 72.**

Health and Welfare: **HB 175, HB 255, HB 257, HB 301, HB 306.**

The Committee on Committees reported the following members have been named as Advisory Members of Budgetary Subcommittees:

Commerce, Energy and Natural Resources	Representative Stumbo Representative Brinkley Representative Petty
Education	Representative Hines Representative Barrows Representative Curd
General Government, Finance and Public Protection	Representative Clapp Representative Barrows Representative B. Smith
Human Resources	Representative Blevins Representative Handy Representative Overstreet
Justice, Corrections and Judiciary	Representative Priddy Representative McNutt Representative Holbrook
Transportation	Representative Cyrus Representative Rattliff Representative Cline

CALENDAR

HB 34, HB 35, HB 51, HB 145, HB 274, HB 276, HB 40, HB 217, HB 3, HB 147, and **HB 1** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative LeMaster moved that the rules be suspended to act upon Resolutions. Agreed.

Representative Freibert moved the adoption of the following **HR 26:**

HR 26, A RESOLUTION commending and recognizing the Lexington Catholic High School women's cross country team.

WHEREAS, the Lexington Catholic High School women's cross country team has won the 1983 Kentucky State High School Cross Country Championship; and

WHEREAS, these outstanding young women best exemplify the finest qualities so inherent in the youth of the Commonwealth; and

WHEREAS, all Kentuckians are justifiably proud of the accomplishments of the Lexington Catholic High School women's cross country team;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Lexington Catholic High School women's cross country team be and it is hereby honored, commended and recognized for its accomplishments in winning the 1983 state high school cross country championship.

Section 2. That a copy of this resolution be dispatched to the Lexington Catholic High School women's cross country team.

HR 26 was adopted by voice vote.

Representative Freibert moved the adoption of the following **HR 27**:

HR 27, A RESOLUTION commending and recognizing the Lexington Catholic High School soccer team.

WHEREAS, the Lexington Catholic High School soccer team has won the Kentucky State High School Soccer Championship for the last two consecutive years; and

WHEREAS, these outstanding young men best exemplify the finest qualities so inherent in the youth of the Commonwealth; and

WHEREAS, all Kentuckians are justifiably proud of the accomplishments of the Lexington Catholic High School soccer team;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Lexington Catholic High School soccer team be and it is hereby honored, commended and recognized for its accomplishments in winning two consecutive state high school soccer championships.

Section 2. That a copy of this resolution be dispatched to the Lexington Catholic High School soccer team.

HR 27 was adopted by voice vote.

Orders of the Day

HB 20 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved that **HB 20** be passed.

Representative Stumbo moved that **HB 20** be laid on the Clerk's desk.

On the roll call the vote was yeas: 47-Allen, Barrows, Bendl, Blandford, Blevins, Bronger, Burch, Caldwell, Clarke, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Endicott, Farrow, Freibert, Gray, Guenthner, Handy, Heleringer, T. Jones, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Moberly, Moore, Nett, Overstreet, Patrick, Perkins, Petty, Rapier, Seum, Stumbo, Thomason, Turner, White, Worthington. Nays: 42-Arnold, Bennett, Brinkley, Brown, Bruce, Burnette, Clapp, P. Clark, Cline, Craddock, Dawahare, Dunn, Ellington, Ford, Foster, Fryman, Hancock, Harper, Head, Holbrook, Holloway, R. Jones, Layman, McNutt, Meyer, Noe, Noland, Pearman, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Todd, Van Horn, Williams, Yates.

The motion that **HB 20** be laid on the Clerk's desk was adopted.

HB 36, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 36**. Agreed.

Representative Long moved that **HB 36**, as amended, be passed.

On the roll call the vote was yeas: 49-Arnold, Barrows, Bendl, Bennett, Bronger, Burch, Clapp, P. Clark, Cowan, Craddock, Crupper, Donnermeyer, Dunn, Foster, Hancock, Handy, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, Thomas, Thomason, Williams. Nays: 43-Allen, Blandford, Blevins, Brinkley, Brown, Bruce, Burnette, Caldwell, Clarke, Cline, Curd, Cyrus, Dawahare, Deskins, Ellington, Farrow, Ford, Freibert, Fryman, Gray, Guenthner, Head, Heleringer, Layman, Lefevers, Little, Maggard, McNutt, Morris, Noland, Overstreet, Perkins, Rattliff, Robinson, F. Smith, Stone, Stumbo, Todd, Turner, Van Horn, White, Worthington, Yates.

HB 36, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 36,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 37, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 37.** Agreed.

Representative Long moved that **HB 37,** as amended, be passed.

On the roll call the vote was, yeas: 80-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Caldwell, Clapp, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Worthington, Yates. Nays: 10-Brown, Bruce, Burnette, Dawahare, Ellington, Fryman, Lefevers, McNutt, Morris, Van Horn.

HB 37, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 37,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 49, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Substitute to **HB 49.** Agreed.

Representative Rapier moved that **HB 49,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Barrows.

HB 49, by way of Committee Substitute, was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 49,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative LeMaster moved the adoption of the following Legislative Citation No. 5:

The House of Representatives of the Commonwealth of Kentucky hereby commends "Poochie" Sturdivant for maintaining a place for the free discussion of political ideas, even if they are wrong; a place to swap tales, where the first man is always topped; a place where you can tell a "big one" and not thereafter be held accountable: and it further commends the "members of the jury" who hold forth at the "capitol" in Railton, Kentucky for giving their time; for putting off working in their tobacco and for giving their wives a chance the cut the stove wood while they solve the problems of the day and grow winter crops.

This prestigious body salutes you, extending best wishes for continued success. (Sponsored by Representative B. Richardson.)

Agreed.

Representative Deskins moved that **HB 111** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Clapp moved that a call of the roll be taken to show co-sponsors of **HB 341**. Agreed.

The following members requested that their names be added as Co-sponsor of **HB 341**: Allen, Arnold, Bronger, Bruce, Burch, Caldwell, Craddock, Curd, Dunn, Ellington, Farrow, Ford, Fryman, Gray, Handy, Harper, Heleringer, Holloway, Layman, Lefevers, Lile, Lundergan, Maggard, McNutt, Moore, Nett, Noland, Patrick, Pearman, Richards, Robinson, B. Smith, Thomason, Todd, Turner, White, Yates.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsors' requests to be accepted. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions:

Representative Bendl, **HB 255**; Representative Blevins, **HB 309**, **HB 311**; Representative Brinkley, **HB 1**; Representative Blevins, **HB 99**; Representative Burnette; **HB 220**, **HB 327**, **HB 328**; Representative Caldwell, **HB 311**; Representative Cowan, **HB 255**; Representative Donnermeyer, **HB 33**, **HB 99**; Representative Freibert, **HR 17**; **HB 265**, **HB 269**; Representative Hancock, **HB 100**; Representative Hines, **HB 33**; Representative Holbrook, **HR 21**, **HB 175**; Representative Kenton, **HB 33**, **HB 255**; Representative Kidd, **HR 23**; Representative Layman, **HB 120**; Representative Lefevers, **HB 100**; Representative Lile, **HB 1**, **HB 196**, **HB 227**; Representative Mann, **HB 33**; Representative Moore, **HB 1**, **HB 6**, **HB 97**, **HB 99**; Representative Patrick, **HB 115**, **HB 195**, **HB 201**, **HB 228**, **HB 247**, **HB 260**, **HB 61**, **HB 84**, **HB 90**, **HB 96**, **HB 97**, **HB 104**, **HB 105**, **HB 109**, **HB 311**, **HB 331**; Representative Riner, **HB 19**, **HB 29**, **HB 96**, **HB 221**, **HB 222**, **HB 315**; Representative Seum, **HB 57**, **HB 194**; Representative B. Smith, **HB 51**; Representative Thomas, **HB 120**; Representative T. Jones, **HB 120**; Representative White, **HB 100**; Representative Williams, **HB 255**, Representative Yates, **HB 311**.

Representative Bronger requested that his name be withdrawn as co-sponsor of **HB 341**.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 28, by Representatives Thomas, T. Jones, Mann, Donnermeyer, and Bronger: A RESOLUTION adjourning the House of Representatives in honor and memory of Sy Ramsey.

HB 343, by Representatives Guenthner and Farrow: AN ACT relating to adoption.

HB 344, by Representative Donnermeyer and Mann: AN ACT relating to the incarceration of prisoners.

HB 345, by Representatives Williams, Van Horn, Lundergan, Bennett, Dunn, McBee, Crupper, P. Richardson, Stumbo, Deskins, Blevins, Stone, and Cyrus: AN ACT relating to crimes and punishments.

HB 346, by Representative Worthington, AN ACT relating to motor vehicles.

HB 347, by Representatives Van Horn and Bennett: AN ACT relating to minimum wage.

HB 348, by Representatives Van Horn and Bennett: AN ACT relating to overtime.

HB 349, by Representatives Bennett and Van Horn: AN ACT relating to minimum wage.

HB 350, by Representatives O'Brien, Morris, and Burch: AN ACT relating to elections and declaring an emergency.

HB 351, by Representatives Crupper, Rapier, P. Richardson, Hancock, Farrow, Petty, and McBee: AN ACT changing the classification of the City of Crittenden in Grant County.

HB 352, by Representative Bennett, Van Horn, Noland, Williams, Gray, Hancock, Holloway, Turner, Cyrus, Stone, Lefevers, and Todd: AN ACT relating to veterans scholarships.

HB 353, by Representative Mann: AN ACT relating to workers' compensation.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 29, HB 64.**

Labor and Industry: **HB 205.**

Energy: **HB 333.**

Judiciary-Civil: **HB 223, HB 114, HB 39, HB 254, HB 307.**

Judiciary-Criminal: **HB 69.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 166** and **HB 169,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 166, AN ACT relating to social workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.130 is amended to read as follows:

(1) Each certified social worker, social worker and licensee holding a certificate of qualification for independent practice shall renew his license or certificate every three (3) years, and shall pay the board a renewal fee not to exceed thirty dollars ($30) *per year* as fixed by the board.

(2) Licensees whose licenses or certificates are renewed by the board shall be issued a renewal license or certificate.

(3) Renewal fees shall be waived for any licensee actually serving in the armed forces of the United States. The waiver shall be effective for six (6) months following honorable discharge, separation, or release from the armed forces, after which period a license or certificate shall be considered lapsed.

(4) The board may, at its discretion, require continuing education as a condition of license renewal.

HB 169, AN ACT relating to errors and omissions insurance for real estate licensees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established a special program to be known as the "real estate errors and omissions insurance program" to be administered, regulated and enforced by the Kentucky real estate commission.

(2) The purpose of this program is to guarantee that all licensees of the commission will be covered by insurance against claims for errors and omissions made during the course of business which cause an aggrieved consumer to suffer a direct monetary loss.

SECTION 2. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall govern the terms of coverage of the real estate errors and omissions insurance program including, but not limited to, the amount of coverage per incident not to exceed one hundred thousand dollars ($100,000) single limit and three hundred thousand dollars ($300,000) per aggregate limit, as well as the premium not to exceed fifty dollars ($50) per year per licensee. The commission may promulgate regulations governing details of the errors and omissions insurance program not specified in this section.

(2) The contract to provide the insurance coverage mandated by this statute shall be awarded after competitive sealed bidding as required by the Kentucky model procurement code, KRS Chapter 45A. Should the commission be unable to obtain appropriate insurance coverage adequately to insure all licensees at a reasonable premium, the insurance requirement mandated by this statute shall be void during the applicable contract year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

A written contract shall be executed between the commission and the selected insurance company detailing all terms of the errors and omissions insurance agreement. Such contract shall be kept on file at the commission offices, and a copy shall be furnished to all licensees.

SECTION 4. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

Coverage by the real estate errors and omissions insurance program shall not be extended to cover claims for:

(1) Libel or slander;

(2) Any punitive or exemplary damages;

(3) Any fraudulent, criminal, malicious, collusive or intentional act by a licensee;

(4) Any error or omission arising out of a licensee's activities as a mortgage banker, escrow agent or construction manager. A licensee shall not be considered an escrow agent merely for holding earnest money deposits, rental deposits, or similar items;

(5) Any injury, sickness or death of a person or injury to, destruction or loss of use of any tangible property;

(6) Any collusive or fraudulent act between the claimant and the licensee or by the claimant himself;

(7) Any act which would be compensable under the Kentucky real estate education, research and recovery fund established by KRS 324.400.

SECTION 5. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) The cost of procuring the insurance coverage mandated by this Act shall be paid by each licensee at the time of the annual license renewal or at original licensure. The license of any broker or sales associate who fails to pay the insurance fee required by this section shall not be granted or renewed for the following year.

(2) Coverage shall be provided only for acts, omissions or errors within the Commonwealth of Kentucky.

The Committee Amendment No. 1 to **HB 169** is as follows:

Amend printed copy of **HB 169** on page 1, line 18, after the word "*incident*", by deleting the words [~~not to exceed~~] and inserting in lieu thereof "*of at least*"; and

Page 3, line 25, after the period, by inserting the following new language: "*The insurance provided under this section shall not be cancelled by the insurance carrier.*"; and

Page 3, line 26, after the word "*provided*" by deleting the word [~~only~~].

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Thomas moved the adoption of the following **HR 28:**

HR 28, A RESOLUTION adjourning the House of Representatives in honor and memory of Sy Ramsey.

In loving memory we pay tribute to our departed friend Sy Ramsey.

WHEREAS, Sy Ramsey, pundit of the fourth estate, has departed this earthly life; and

WHEREAS, throughout Kentucky Sy was known for his keen insight, razored wit, and political astuteness; and

WHEREAS, those many Kentuckians who knew Sy Ramsey now sorely will miss his presence in the Capitol and his many and varied observations on state government and persons political; and

WHEREAS, the forthright qualities he exhibited, his genuine sense of propriety and his ready assistance whenever called upon endeared him to those many who were fortunate enough to have known and loved Sy Ramsey;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its utter sense of loss and bereavement upon the death of Sy Ramsey, and does extend to his family its heartfelt sympathy and condolences.

Section 2. That when this honorable body does adjourn this day, Thursday, January 12, 1984, it does so in honor and memory of Sy Ramsey.

Section 3. That a copy of this resolution be sent to his family.

HR 28 was adopted by voice vote.

The following Floor Amendment No. 2 to **HB 40** was filed by Representative Yates:

Amend printed copy of Committee Substitute to **HB 40** on page 1, line 16, by deleting the opening bracket and the cross-through mark;

and on page 1, line 17, by deleting the cross-through marks and the closing bracket;

and on page 1, line 21, delete the following: "*It includes, but*";

and on page 2, lines 1 and 2, delete both lines in their entirety.

Announcements

The following meetings were announced:

Committee on Rules, on adjournment, State Reception Room.

Majority Caucus, on adjournment, Room 109.

Judiciary-Criminal, Tuesday, on adjournment.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, January 13, 1984.

On the roll call the vote was yeas 78-Allen, Arnold, Bendl, Bennett, Blevins, Bruce, Burch, Caldwell, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Deskins, Maggard, Overstreet.

The motion to adjourn was adopted.

FRIDAY, JANUARY 13, 1984

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.
The roll was called. All members present except Representatives Freibert, Johnson and Thomason.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 12, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 8, SB 35, SB 39, SB 51**, and **SB 57**.

Introduction of Bills and Resolutions

HB 354, by Representative T. Jones: AN ACT relating to emergency vehicles.

HB 355, by Representative Kenton: AN ACT relating to retirement.

HB 356, by Representative B. Richardson: AN ACT relating to motor vehicle equipment.
HB 357, by Representatives Bendl and Perkins: AN ACT relating to the funding of services for parents and children and making an appropriation therefor and declaring an emergency.

HB 358, by Representative Holloway: AN ACT changing the classification of the City of Anchorage in Jefferson County.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 338, HB 337.**

Business Organizations and Professions: **HB 340.**

Cities: **HB 351.**

Counties and Special Districts: **HB 339.**

Education: **HB 352.**

Health and Welfare: **HB 343.**

Judiciary-Criminal: **HB 341, HB 344, HB 345.**

Labor and Industry: **HB 347, HB 348, HB 349, HB 353.**

State Government: **HB 350.**

Transportation: **HB 346, HB 342.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 4, HB 148, HB 149, HB 150, HB 241.**

Natural Resources and Environment: **HB 330, HJR 3, HJR 4.**

Report of Committees

The Committee on Rules reported **HB 1, HB 147, HB 217, HB 276, HB 22, HB 45, HB 42,** and **HB 145** have been posted for passage in Orders of the Day, January 17, 1984.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 51**

Judiciary-Civil: **HB 8.**

Counties and Special Districts: **HB 118.**

Calendar

HB 293, HB 19, HB 122, HB 38, HB 158, HB 187, HB 225, HB 166, and **HB 169** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HJR 13 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HJR 13** be adopted.

HJR 13 was adopted by voice vote.

HB 7 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 7** be passed.

On the roll call the vote was yeas 78-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 7-Allen, Ford, Fryman, Lefevers, Moore, Noland, Todd.

HB 7 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 7** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 9 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 9** be passed.

On the roll call the vote was, yeas: 79-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays: 4-Allen, Fryman, Lefevers, Patrick.

HB 9 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 9** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 278 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that **HB 278** be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 278 was passed and the title agreed to

Representative LeMaster moved that the vote by which **HB 278** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the vote on **HJR 13** be reconsidered. Agreed.

Representative LeMaster moved that **HJR 13** be placed in Orders of the Day for today. Agreed.

HJR 13 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HJR 13** be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HJR 13 was passed and the title agreed to.

Motions, Petitions, and Communications

Representative Noe moved the adoption of the following Legislative Citation No. 6:

"The House of Representatives of the Commonwealth of Kentucky hereby hails the gentleman from Harlan-88, Honorable Bert "Ed" Pollitte for your outstanding service to the people of the Commonwealth through your leadership role as a former member of the House of Representatives. You have displayed great competency and efficiency by your high standard of professionalism. Your political influence is far reaching and of ultimate esteem as evidenced by your two-terms in the House of Representatives, one term in the Senate and one term on the Board of Governors of the Appalachian Region Hospitals, as well as serving as the chairman of a political party. As President of the Savings and Loan Company and as a Real Estate Broker, your leadership is unsurpassed. Your dedication to Flood Control, Economic Development and The Coal Industry was exemplary. As a humanitarian you are most responsive to the needs of others and have enhanced the quality of life for the citizens of your community.

This prestigious body, therefore, accords proudly our affection and fondest best wishes to you Honorable Bert "Ed" Pollitte, the Gentleman from Harlan-88." (Sponsored by Represenative Noe.)

Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filled requests to have their names added as co-sponsors of Bills and Resolutions: Representative Barrows, **HB 357**; Representative Caldwell, **HB 194**; Representative Hancock, **HB 101**, **HB 357**; Representative Hines, **HB 357**; Representative Kenton, **HB 357**; Representative Lefevers, **HB 194**; Representative P. Richardson, **HB 51**; Representative Riner, **HJR 5**, **HR 23**, **HB 329**; Representative F. Smith, **HJR 5**, **HB 329**; Representative Todd, **HB 194**.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 359, by Representative Richards: AN ACT relating to insurance.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 132**, **HR 14**, **HB 126**, **HB 350**, **HB 99**.

Labor and Industry: **HB 323**, **HB 111**.

Motions, Petitions, and Communications (continued)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 20**, by Representative Stumbo:

Amend printed copy of **HB 20** on page 3, after line 16, by adding the following:

"SECTION 3. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For the purpose of Section 1 of this Act "person" shall mean an insurer or any of its employes and any insurance agents or adjusters. "Person" shall not mean in insured."

Floor Amendment No. 2 to **HB 20**, by Representative Barrows:

A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Amend printed copy of **HB 20** on page 1, line 4, after "perform" by deleting "with such frequency as to indicate a general business practice";

On page 3, after line 16, by adding the following:

For the purpose of Section 1 of this Act, "person" shall mean an insurer or any of its employes and any insurance agents or adjusters. "Person" shall not mean an insured.

Section 4. KRS 304.3-200 is amended to read as follows:

(1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Wilfully violated or wilfully failed to comply with any lawful order of the commissioner; or

(b) Wilfully violated or wilfully failed to comply with any lawful regulation of the commissioner; or

(c) Wilfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or

(d) Failed to pay taxes on its premiums as required by law.

In lieu of or in addition to such suspension or revocation, the commissioner may, in his discretion, levy upon the insurer, and the insurer shall pay forthwith, an administrative fine as specified in KRS 304.99-020.

(2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this state:

1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or

2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims*; or*

3. Has committed any unfair claims settlement practice as defined in subtitle 12 or regulations promulgated thereunder.

(c) Refuses to be examined, or if its directors, officers, employes or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later.

(e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

(f) No insurer, its agents, servants, or employes shall incur any liability in connection with or as a result of any disclosure made to the commissioner of insurance pursuant to the provisions of this section.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.

Floor Amendment No. 1 to **HB 51**, by Representative Pearman:

Amend printed copy of **HB 51** on page 3, line 2, by deleting "two thirds 2/3 of its annual gross income therefrom" and substituting therefor "one-half (1/2) of its annual gross income therefrom and not more than one-hundred thousand dollars ($100,000) annual net income from all sources";

On page 22, line 20, by inserting the following: "SECTION 19. A NEW SECTION OF KRS

CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The total amount of principal which a qualified applicant may owe to the corporation at any one time shall not exceed two-hundred fifty thousand dollars ($250,000)."; and

On page 22, line 20, renumber Section 19 as Section 20.

The following meetings were announced:

Labor and Industry: Tuesday, 9:00 a.m.

Appropriations and Revenue: Tuesday, 10:00 a.m., Room 109.

Counties and Special Districts: Tuesday, 8:30 a.m.

Committee on Rules: On adjournment, Room 316.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, January 17, 1984.

On the roll call the vote was yeas 72-Allen, Arnold, Barrows, Bendl, Blevins, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Ford, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Todd, Turner, Van Horn, White, Williams, Yates. Nays 4-Fryman, Heleringer, Maggard, Perkins.

The motion to adjourn was adopted.

TUESDAY, JANUARY 17, 1984

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Sewell Woodward, Centenary Methodist Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Holloway and P. Richardson.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 13, 1984 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 24, SB 89,** and **HB 209.**

Introduction of Bills and Resolutions

HB 360, by Representatives Ford, Todd, Noland, Ellington, Riner, Allen, and Turner: AN ACT relating to motor vehicle operator's licenses.

HB 361, by Representatives Perkins, Stumbo, Bronger, Brinkley, Hines, Little, Blevins, Maggard, Ellington, Mann, Cyrus, Cline, Moore, Meyer, Cowan, Dawahare, Worthington, Pearman, and Lefevers: AN ACT relating to physician assistants.

Report on Enrolled Bills

The Committee on Enrollment report **HB 209** had been examined and found correctly enrolled. **HB 209** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:10 p.m.)

HB 209 delivered to the Senate, signed by President, Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 357.**

Cities: **HB 358, SB 35, SB 39.**

Counties and Special Districts: **SB 8, SB 51.**

Judiciary-Criminal: **SB 57.**

State Government: **HB 355.**

Transportation: **HB 354, HB 356.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 77, HB 127, HB 234, HB 237, HB 251, HB 252.**

Report of Committees

The Committee on Rules reported **HB 19, HB 169, HB 3, HB 34, HB 40,** and **HB 274** have been posted for passage in Orders of the Day, January 18, 1984.

The Committee on Rules reported **HB 38** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Counties and Special Districts reported **HB 167** and **HB 259** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 167, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 446.010 is amended to read as follows:
As used in the statute laws of this state, unless the context requires otherwise:
(1) "Action" includes all proceedings in any court of this state;
(2) "Animal" includes every warm-blooded living creature except a human being;
(3) "Attorney" means attorney-at-law;
(4) "Bequeath" and "devise" mean the same thing;
(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex;
(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company or association;
(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company or association;
(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering or death is caused or permitted;
(10) "Directors," when applied to corporations, includes managers or trustees;
(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;
(12) "Domestic animal" means any animal converted to domestic habitat;
(13) "Federal" refers to the United States;
(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;
(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;
(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;
(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;
(18) "Land" or "real estate" includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest;
(19) "Legatee" and "devisee" convey the same idea;
(20) "May" is permissive;
(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, *metropolitan correctional officers*, marshals, policemen and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization whether or not the money has ever been paid into the treasury and whether or not the money is still in the treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the legislative research commission pursuant to KRS 42.600, 42.605 and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year; and

(38) "City" includes town.

HB 259, AN ACT relating to anatomical gifts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.187 is amended to read as follows:

(1) In any case in which a patient is in need of *an organ or* a cornea or corneal tissue for a transplant, the coroner, medical examiner, or, *in the case involving a cornea or corneal tissue transplant,* his appropriately qualified designee with training in ophthalmologic techniques may, upon the request of any person authorized under KRS 311.185, provide or authorize the removal of *any organ or* the cornea or corneal tissue by a qualified physician under the following conditions:

(a) The decedent has been defined as a "coroner's case" as set forth by KRS 72.405(2), an autopsy has been ordered pursuant to KRS 72.410, and the *organ or* cornea or corneal tissue are suitable for transplant;

(b) No objection by the next of kin is known by the coroner or medical examiner; and

(c) The removal of the *organ or* cornea or corneal tissue will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance.

(2) The medical examiner, coroner, or his appropriately qualified designee or any persons authorized under KRS 311.185 shall not be held liable in any civil or criminal action for failure to obtain consent of the next of kin.

The Committee on Labor and Industry reported **HB 205** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 205, AN ACT relating to occupational safety and health of employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this Act, no person shall enter or work in a utility manhole until it has been established by tests that the manhole is free from toxic or explosive concentrations.

(2) Whenever tests indicate that a utility manhole contains toxic or explosive concentrations, the manhole shall be ventilated to reduce and maintain the concentrations at safe levels before any person is permitted to enter the manhole. Tests shall be repeated as necessary to assure the maintenance of the concentrations at safe levels. If an emergency or other unusual condition requires immediate entry into contaminated or untested utility manholes, each person entering the manhole shall wear respiratory protection of a type approved by the U.S. bureau of mines for the exposure.

SECTION 2. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) At least two (2) persons shall be present when work is to be performed inside a utility manhole. One (1) of the two (2) persons shall be responsible for the surveillance of the manhole to afford immediate action in the event of an emergency. The individual responsible for surveillance may perform other duties provided the other duties do not interfere with his surveillance responsibilities.

(2) The individual who is responsible for the surveillance set forth in subsection (1) of this section shall be trained in the administration of first aid in accordance with the minimum requirements prescribed by the American national red cross for completion of its standard course of first aid and personal safety.

SECTION 3. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall prohibit the employer from subcontracting for the performance of the surveillance as set forth in Section 2 of this Act.

The Committee on Counties and Special Districts reported **HB 208**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 208, AN ACT relating to tax collection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.800 is amended to read as follows:

The county clerk shall be collector of all state, county, *city*, school, and special taxing district ad valorem taxes on motor vehicles.

Section 2. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the department of revenue for collecting state ad valorem taxes on motor vehicles a commission of two percent (2%) on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer for collecting county and special district ad valorem taxes on motor vehicles a commission of two percent (2%) on county and special taxes collected.

(3) The county clerk shall be allowed a commission of two percent (2%) of the school district taxes collected.

(4) The county clerk shall be allowed a commission of two percent (2%) of the city taxes collected.

(5) For filing a lien for delinquent taxes on motor vehicles, the county clerk shall be allowed a fee of six dollars ($6) to be added to the amount of taxes, penalty and interest due and collected upon payment by the taxpayer of the delinquent tax claim.

Section 3. KRS 134.810 is amended to read as follows:

(1) All state, county, *city*, school and special taxing district ad valorem taxes shall be due and payable on or before the last day of the month in which registration is required by law for all motor vehicles renewed or transferred.

(2) All state, county, *city*, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the end of the month in which registration is required by law.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a

penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. The county clerk shall file a lien on any motor vehicle for which taxes have become delinquent on behalf of the state, county, *city,* school, and special taxing districts and record such lien on the face of the certificate of title and registration, and also record the lien in the manner in which lis pendens are recorded.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the purchaser shall become liable for the taxes on said motor vehicle.

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, *city,* school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month following said assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

Section 4. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, *city,* school, and special taxing districts all taxes on motor vehicles collected by him for the preceding month. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the department for the prompt payment to the state of other state tax monies collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, *city,* school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All monies collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall report and deposit such collections with the state, after receiving the appropriate commissions due from these collections, for distribution to the proper tax district.

(6) The department shall provide procedures governing receipt and disbursement of all monies collected under subsections (4) and (5) of this section.

Section 5. KRS 134.820 is amended to read as follows:

(1) Each county clerk shall annually, by January 31 of each year, make a settlement with the state, county, *city,* school, and special taxing districts for all ad valorem taxes on motor vehicles collected for the prior tax period. In the event that any county clerk resigns, dies or otherwise vacates his office, a settlement with all districts shall be made within thirty (30) days from the date the office is vacated.

(2) On final settlement, the clerk shall pay the state, county, *city,* school, or special taxing districts all monies remaining in his hands to which they are entitled.

Section 6. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents (30) for calculating the state, county and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the department of revenue for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the county levy and the other one-half (1/2) out of the state treasury. The county clerk shall certify the allowance to the finance and administration cabinet, which shall draw a warrant on the state treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above allowance shall likewise be paid to the county clerk for calculation of the state, county, *city,* school and special district tax for each individual motor vehicle taxpayer, based upon certification from the Department of Revenue of the number of accounts as of January 1 each year. The department shall recover from the county clerk those costs incurred by the department directly associated with the calculation of said taxes in the centralized ad valorem tax system for motor vehicles.

Section 7. KRS 132.487 is amended to read as follows:

(1) The department shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, *city,* school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the

motor vehicle by the party charged with issuing such registration. The department shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the department on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The department of transportation shall provide access to all records of motor vehicle registrations to the department and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the department, have primary responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The department may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the department by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 8. KRS 186.021 is amended to read as follows:

No county clerk shall issue a registration for renewal or transfer for any motor vehicle on which state, county, *city,* school, or special taxing district ad valorem taxes are due and have not been paid.

Section 9. KRS 133.185 is amended to read as follows:

Except as provided in KRS 132.487, no tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the department of revenue to the county clerk as provided in KRS 133.180.

Section 10. KRS 91.420 is amended to read as follows:

During December of each year or as soon as the rates for the coming year are fixed, the tax bills shall be made out according to the provisions of the ordinances levying taxes and the following January shall be listed with the tax receiver for collection. *Except as provided in KRS 133.240,* taxes on personal property may be included with those on some one (1) parcel of land and improvements. Any tax bill so listed with the tax receiver shall be prima facie proof that all steps have been taken to make it a binding tax bill for the amounts and purposes and against the person and property therein named or described.

Section 11. KRS 92.280 is amended to read as follows:

(1) *Except as provided in KRS 132.487,* the legislative body of each city of the second to the sixth class shall provide each year, by ordinance, for the assessment of all real and personal property within the corporate limits that is subject to taxation for city purposes, and shall levy an ad valorem tax thereon for city purposes.

(2) The legislative body of each city of the second to sixth class may impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions, and may provide for the collection of such fees.

Section 12. KRS 92.290 is amended to read as follows:

With the exception that the taxable situs of motor vehicles is governed by KRS 132.227, all real and personal property within any city of the third, fifth or sixth class, and all personal property, except such tangible personal property as has an actual and bona fide situs without the city, of persons domiciled or actually residing in the city on the assessment date, and of all corporations having their chief office or place of business in the city on that date, and all franchises of same, shall be subject to assessment and taxation for city purposes, unless exempt from taxation by the constitution or statutes of this state. Any franchise granted in whole or in part by a city of the third, fifth or sixth class, and exercised within the city, may be taxed by the city notwithstanding the corporation owning or exercising the same may have its chief office or place of business elsewhere. Any corporation doing business in a city of the sixth class, whether its franchise was granted by such city or not, may be required to pay a license tax.

Section 13. KRS 92.420 is amended to read as follows:

Except as provided in KRS 132.487, property subject to city taxation shall be assessed for city taxation as of the following dates:

(1) In cities of the second class, July 1;
(2) In cities of the third class, a date fixed by the city legislative body;
(3) In cities of the fourth class, January 1;

(4) In cities of the fifth class, January 1;

(5) In cities of the sixth class, January 1.

Section 14. KRS 92.430 is amended to read as follows:

(1) *Except as provided in KRS 132.487,* the assessor in each city of the second class shall assess in one (1) book all property subject to city taxation, and in making the assessment for any year shall assess any property subject to taxation that he finds to have been omitted in any former year.

(2) On or before July 1 of each year the city assessor shall give notice, by publication pursuant to KRS chapter 424 and by handbills posted throughout the city, that all persons owning real estate on July 1 and all persons owning or having in their possession or under their control on July 1 any personal property subject to city taxation shall, before September 1, appear at the assessor's office and furnish him a true and complete list of the property, with its true cash value as of July 1, under oath, upon forms to be furnished by the assessor on application at his office, and that all merchants doing business in the city shall in like manner, in addition to listing their personal property, state the highest amount in value of all merchandise owned or kept on hand for sale by them during the three (3) months next preceding July. The assessor and his deputies may administer oaths, and examine any person on oath concerning his real and personal property and its value, and may examine merchants on oath as to the statements required of them. The assessor may also gather information by other means.

(3) For the purpose of assessing property for taxation, the assessor shall keep his office open, with himself or a deputy in attendance, during the hours from 8 a.m. to 6 p.m. or such other or additional hours as are fixed by ordinance, from July 1 to September 1, except Sundays and legal holidays. The assessor shall constantly keep on hand, and furnish to persons lawfully requesting them, all necessary blanks and forms for the lists and statements required by this section.

(4) If any taxpayer is an artificial person, its chief officer or agent in the city at the time shall perform the duties imposed upon the taxpayer by this section.

(5) On and after September 1 of each year and until the date fixed by ordinance for the closing of the assessment books, it shall be the duty of the assessor personally or through deputies to see in person or to call at the residence, usual place of abode or business place of all taxpayers who have not listed their property by appearing at the assessor's office for that purpose prior to September 1 or whose property is not well known to him, and the assessor or his deputies shall secure the assessment list by making such calls and shall view the property when practicable to do so.

(6) Any person who fails or refuses to supply the assessor or his deputies with a complete list of his property and the value thereon when called upon at his residence, usual place of abode or place of business may be subject to a fine to be fixed by ordinance but not exceeding fifty dollars ($50.00).

(7) On or before December 1 of each year the assessor shall return to the auditor his assessment books, certified by him to be a full, careful and honest assessment of all property in the city subject to assessment. He shall take the auditor's receipt therefor in duplicate, and shall transmit one (1) of the duplicates to each board of the general council at its first regular meeting in December. The assessment books and reports shall remain in the auditor's office, subject to public inspection, until transmitted to the board of equalization.

Section 15. KRS 92.490 is amended to read as follows:

(1) The assessor in each city of the fourth class shall, on or before the first Monday in May of each year, take a list of all the taxable property in the city and return it to the city legislative body. *Except as provided in KRS 132.487,* he shall list all personal property in the city, whether belonging to residents or to nonresidents, that is liable for taxation, in the same manner as provided by law for the property valuation administrator, and shall also list every male resident of the city who is twenty-one (21) years of age or over. He shall list the residents of the city and owners of property in the city together in one or more books, as nearly as possible in alphabetical order, and the books shall be ruled in columns so as to show the property subject to taxation and its value. The assessor shall value the property at its fair cash value, and shall enter in the book, opposite the name of the owner, the amount of each kind of property, and opposite the name of each adult male resident, the amount of poll tax.

(2) The assessor shall call upon each person from whom taxes are collectible, and shall administer to him an oath to give in a true and complete list of all taxable property in his possession, whether as owner or in the right of another, as of April 1, and that he will give true and correct answers to all questions asked concerning such taxable property. The assessor shall thereupon make out a list and assess the property of the taxpayer. In the case of corporations, one or more of its officers or agents found in the city shall perform the duties imposed by this section on individual taxpayers. If any person refuses to take the oath or to give in a list of his property or that of the person for which he is agent or attorney, the assessor shall assess the property from the best of his information.

(3) Every person who, on April 1, owns any taxable property or holds it in the right of another shall, when called upon, list it with the city assessor, and shall remain bound for the tax, notwithstanding he may have sold or parted with the property. The list shall be made upon blanks prepared by the assessor, and shall show the value of the personalty, the amount of investments, and all property assessed for state taxes. The

person making the list shall make oath to the list before the assessor or one (1) of his deputies, who may administer the oath.

(4) Improvements not owned by the owner of the land may be assessed in the name of the owner of the improvements. The assessor shall not assess any property in such a name as "A B's heirs," "A B's devisees," "A B's executor," or the like, but may assess real property in such a name as "A B's unknown heirs," "A B's unknown devisees," or the like; when the names cannot be obtained by diligent inquiry. When there are more than three (3) joint owners, three (3) of the names with the words "and others," shall be sufficient. Where remainders or future estates are outstanding, the name of the holder of the particular estate shall be assessed, with the words "holder of present estate" after his name.

(5) The assessor or one (1) of his deputies shall view all real property and tangible personal property before assessing it. Tangible personal property shall be viewed by going upon the premises where it or the greater part of it is found. The failure of the assessor to view any property shall not invalidate the assessment.

(6) The assessor shall obtain, at the expense of the city, copies of all recorded plats of land in the city. He shall keep them in his office, and mark on them all changes occurring in the ownership and in the subdivision or combination of the lots.

(7) The assessor shall take a census of the city every two (2) years.

Section 16. KRS 92.560 is amended to read as follows:

As soon as the tax levy ordinance in each city of the second class becomes in force, the auditor shall deliver the assessment books to the city clerk, who shall from them make out the tax bills. Each bill shall show each lot and the assessment thereon separately, the name of the supposed owner, the net total assessment of personal property, *other than motor vehicles governed by the provisions of KRS 132.487,* against the person and the tax thereon. The tax bills shall be so arranged that the bill for each half-year may be detached and have each part intelligible. There shall be attached to each bill a stub showing in condensed form the items and amounts in the bill, and the bills and stubs shall be numbered consecutively, the number of each stub to correspond to the bill to which it is attached. The bills and stubs shall be bound in book form. On or before April 1 of each year the clerk shall deliver the assessment books and tax bills to the auditor, and together they shall ascertain whether the sum of the tax bills equals the amount of the tax which, at the rate fixed, the total assessment should realize, and if it does not, they shall find and correct the error. When the error is corrected, the auditor shall receipt for the assessment books and tax bills. The auditor shall then deliver all tax bills to the treasurer and take his receipt for the gross amount of the bills. As soon as practicable after receiving the tax bills, the treasurer shall mail to each person against whom a tax bill has been listed, or to his guardian or conservator, a postpaid notice, directed to the best of his knowledge, stating the number and amount of the bill, the date when due and the penalties imposed for nonpayment. The failure of the treasurer to send the notice, or of the taxpayer, guardian or conservator to receive it, shall not invalidate the tax or the interest or penalties, or any subsequent proceeding for the collection thereof.

Section 17. This Act shall take effect on January 1, 1985.

The Committee Substitute to **HB 208** is as follows:

HB 208, AN ACT relating to tax collection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.800 is amended to read as follows:

The county clerk shall be collector of all state, county, *city,* school, and special taxing district ad valorem taxes on motor vehicles.

Section 2. KRS 134.805 is amended to read as follows:

(1) The county clerk shall be allowed by the department of revenue for collecting state ad valorem taxes on motor vehicles a commission of *four percent (4%)* [~~two percent (2%)~~] on state taxes collected.

(2) The county clerk shall be allowed by the county treasurer for collecting county and special district ad valorem taxes on motor vehicles a commission of *four percent (4%)* [~~two percent (2%)~~] on county and special taxes collected.

(3) The county clerk shall be allowed a commission of *four percent (4%)* [~~two percent (2%)~~] of the school district taxes collected.

(4) *The county clerk shall be allowed a commission of four percent (4%) of the city taxes collected.*

(5) For filing a lien for delinquent taxes on motor vehicles, the county clerk shall be allowed a fee of six dollars ($6) to be added to the amount of taxes, penalty and interest due and collected upon payment by the taxpayer of the delinquent tax claim.

Section 3. KRS 134.810 is amended to read as follows:

(1) All state, county, *city,* school and special taxing district ad valorem taxes shall be due and payable

on or before the last day of the month in which registration is required by law for all motor vehicles renewed or transferred.

(2) All state, county, *city,* school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the end of the month in which registration is required by law.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. The county clerk shall file a lien on any motor vehicle for which taxes have become delinquent on behalf of the state, county, *city,* school, and special taxing districts and record such lien on the face of the certificate of title and registration, and also record the lien in the manner in which lis pendens are recorded.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the purchaser shall become liable for the taxes on said motor vehicle.

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, *city,* school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month following said assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

Section 4. KRS 134.815 is amended to read as follows:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, *city,* school, and special taxing districts all taxes on motor vehicles collected by him for the preceding month. The county clerk shall be required to deposit state collections in a manner consistent with procedures established by the department for the prompt payment to the state of other state tax monies collected by the county clerk.

(2) Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.

(3) The county clerk may be granted an extension, not to exceed fifteen (15) days, for filing the monthly report to each district required by this section.

(4) In the event a motor vehicle is registered in a county other than that in which the vehicle had a taxable situs as of the most recent assessment date, the county clerk in the new county of registration shall be charged with collecting the ad valorem taxes due for the state, county, *city,* school and special tax districts in which the vehicle had situs. The county clerk making such collections shall receive commissions on collections as set out for other collections on motor vehicles.

(5) All monies collected under this section by a county clerk on motor vehicles which had a taxable situs in another county shall report and deposit such collections with the state, after receiving the appropriate commissions due from these collections, for distribution to the proper tax district.

(6) The department shall provide procedures governing receipt and disbursement of all monies collected under subsections (4) and (5) of this section.

Section 5. KRS 134.820 is amended to read as follows:

(1) Each county clerk shall annually, by January 31 of each year, make a settlement with the state, county, *city,* school, and special taxing districts for all ad valorem taxes on motor vehicles collected for the prior tax period. In the event that any county clerk resigns, dies or otherwise vacates his office, a settlement with all districts shall be made within thirty (30) days from the date the office is vacated.

(2) On final settlement, the clerk shall pay the state, county, *city,* school, or special taxing districts all monies remaining in his hands to which they are entitled.

Section 6. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed thirty cents (30) for calculating the state, county and school tax and preparing a tax bill for each individual taxpayer for the sheriff or collector under the provisions of KRS 133.220, and one dollar ($1) for each tax bill made in case of an omitted assessment.

(2) The county clerk shall present his account to the fiscal court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the department of revenue for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the county levy and the other one-half (1/2) out of the state treasury. The county clerk shall certify the allowance to the finance and administration cabinet, which shall draw a warrant on the state treasurer in favor of the county clerk for the state's one-half (1/2).

(3) The above allowance shall likewise be paid to the county clerk for calculation of the state, county, *city,* school and special district tax for each individual motor vehicle taxpayer, based upon certification from the Department of Revenue of the number of accounts as of January 1 each year. The department shall recover from the county clerk those costs incurred by the department directly associated with the calculation

of said taxes in the centralized ad valorem tax system for motor vehicles.

Section 7. KRS 132.487 is amended to read as follows:

(1) The department shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, *city,* school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing such registration. The department shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the department on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The department of transportation shall provide access to all records of motor vehicle registrations to the department and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the department, have [~~primary~~] responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The department may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the department by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 8. KRS 186.021 is amended to read as follows:

No county clerk shall issue a registration for renewal or transfer for any motor vehicle on which state, county, *city,* school, or special taxing district ad valorem taxes are due and have not been paid.

Section 9. KRS 133.185 is amended to read as follows:

Except as provided in KRS 132.487, no tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the department of revenue to the county clerk as provided in KRS 133.180.

Section 10. KRS 91.420 is amended to read as follows:

During December of each year or as soon as the rates for the coming year are fixed, the tax bills shall be made out according to the provisions of the ordinances levying taxes and the following January shall be listed with the tax receiver for collection. *Except as provided in KRS 133.240,* taxes on personal property may be included with those on some one (1) parcel of land and improvements. Any tax bill so listed with the tax receiver shall be prima facie proof that all steps have been taken to make it a binding tax bill for the amounts and purposes and against the person and property therein named or described.

Section 11. KRS 92.280 is amended to read as follows:

(1) *Except as provided in KRS 132.487,* the legislative body of each city of the second to the sixth class shall provide each year, by ordinance, for the assessment of all real and personal property within the corporate limits that is subject to taxation for city purposes, and shall levy an ad valorem tax thereon for city purposes.

(2) The legislative body of each city of the second to sixth class may impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions, and may provide for the collection of such fees.

Section 12. KRS 92.290 is amended to read as follows:

With the exception that the taxable situs of motor vehicles is governed by KRS 132.227, all real and personal property within any city of the third, fifth or sixth class, and all personal property, except such tangible personal property as has an actual and bona fide situs without the city, of persons domiciled or actually residing in the city on the assessment date, and of all corporations having their chief office or place of business in the city on that date, and all franchises of same, shall be subject to assessment and taxation for city purposes, unless exempt from taxation by the constitution or statutes of this state. Any franchise granted in whole or in part by a city of the third, fifth or sixth class, and exercised within the city, may be taxed by the city notwithstanding the corporation owning or exercising the same may have its chief office or place of business elsewhere. Any corporation doing business in a city of the sixth class, whether its franchise was granted by such city or not, may be required to pay a license tax.

Section 13. KRS 92.420 is amended to read as follows:

Except as provided in KRS 132.487, property subject to city taxation shall be assessed for city taxation as of the following dates:

(1) In cities of the second class, July 1;
(2) In cities of the third class, a date fixed by the city legislative body;
(3) In cities of the fourth class, January 1;
(4) In cities of the fifth class, January 1;
(5) In cities of the sixth class, January 1.

Section 14. KRS 92.430 is amended to read as follows:

(1) *Except as provided in KRS 132.487,* the assessor in each city of the second class shall assess in one (1) book all property subject to city taxation, and in making the assessment for any year shall assess any property subject to taxation that he finds to have been omitted in any former year.

(2) On or before July 1 of each year the city assessor shall give notice, by publication pursuant to KRS chapter 424 and by handbills posted throughout the city, that all persons owning real estate on July 1 and all persons owning or having in their possession or under their control on July 1 any personal property subject to city taxation shall, before September 1, appear at the assessor's office and furnish him a true and complete list of the property, with its true cash value as of July 1, under oath, upon forms to be furnished by the assessor on application at his office, and that all merchants doing business in the city shall in like manner, in addition to listing their personal property, state the highest amount in value of all merchandise owned or kept on hand for sale by them during the three (3) months next preceding July. The assessor and his deputies may administer oaths, and examine any person on oath concerning his real and personal property and its value, and may examine merchants on oath as to the statements required of them. The assessor may also gather information by other means.

(3) For the purpose of assessing property for taxation, the assessor shall keep his office open, with himself or a deputy in attendance, during the hours from 8 a.m. to 6 p.m. or such other or additional hours as are fixed by ordinance, from July 1 to September 1, except Sundays and legal holidays. The assessor shall constantly keep on hand, and furnish to persons lawfully requesting them, all necessary blanks and forms for the lists and statements required by this section.

(4) If any taxpayer is an artificial person, its chief officer or agent in the city at the time shall perform the duties imposed upon the taxpayer by this section.

(5) On and after September 1 of each year and until the date fixed by ordinance for the closing of the assessment books, it shall be the duty of the assessor personally or through deputies to see in person or to call at the residence, usual place of abode or business place of all taxpayers who have not listed their property by appearing at the assessor's office for that purpose prior to September 1 or whose property is not well known to him, and the assessor or his deputies shall secure the assessment list by making such calls and shall view the property when practicable to do so.

(6) Any person who fails or refuses to supply the assessor or his deputies with a complete list of his property and the value thereon when called upon at his residence, usual place of abode or place of business may be subject to a fine to be fixed by ordinance but not exceeding fifty dollars ($50.00).

(7) On or before December 1 of each year the assessor shall return to the auditor his assessment books, certified by him to be a full, careful and honest assessment of all property in the city subject to assessment. He shall take the auditor's receipt therefor in duplicate, and shall transmit one (1) of the duplicates to each board of the general council at its first regular meeting in December. The assessment books and reports shall remain in the auditor's office, subject to public inspection, until transmitted to the board of equalization.

Section 15. KRS 92.490 is amended to read as follows:

(1) The assessor in each city of the fourth class shall, on or before the first Monday in May of each year, take a list of all the taxable property in the city and return it to the city legislative body. *Except as provided in KRS 132.487,* he shall list all personal property in the city, whether belonging to residents or to nonresidents, that is liable for taxation, in the same manner as provided by law for the property valuation administrator, and shall also list every male resident of the city who is twenty-one (21) years of age or over. He shall list the residents of the city and owners of property in the city together in one or more books, as nearly as possible in alphabetical order, and the books shall be ruled in columns so as to show the property subject to taxation and its value. The assessor shall value the property at its fair cash value, and shall enter in the book, opposite the name of the owner, the amount of each kind of property, and opposite the name of each adult male resident, the amount of poll tax.

(2) The assessor shall call upon each person from whom taxes are collectible, and shall administer to him an oath to give in a true and complete list of all taxable property in his possession, whether as owner or in the right of another, as of April 1, and that he will give true and correct answers to all questions asked concerning such taxable property. The assessor shall thereupon make out a list and assess the property of the taxpayer. In the case of corporations, one or more of its officers or agents found in the city shall perform the duties imposed by this section on individual taxpayers. If any person refuses to take the oath or to give in a list of his property or that of the person for which he is agent or attorney, the assessor shall assess the property

from the best of his information.

(3) Every person who, on April 1, owns any taxable property or holds it in the right of another shall, when called upon, list it with the city assessor, and shall remain bound for the tax, notwithstanding he may have sold or parted with the property. The list shall be made upon blanks prepared by the assessor, and shall show the value of the personalty, the amount of investments, and all property assessed for state taxes. The person making the list shall make oath to the list before the assessor or one (1) of his deputies, who may administer the oath.

(4) Improvements not owned by the owner of the land may be assessed in the name of the owner of the improvements. The assessor shall not assess any property in such a name as "A B's heirs," "A B's devisees," "A B's executor," or the like, but may assess real property in such a name as "A B's unknown heirs," "A B's unknown devisees," or the like; when the names cannot be obtained by diligent inquiry. When there are more than three (3) joint owners, three (3) of the names with the words "and others," shall be sufficient. Where remainders or future estates are outstanding, the name of the holder of the particular estate shall be assessed, with the words "holder of present estate" after his name.

(5) The assessor or one (1) of his deputies shall view all real property and tangible personal property before assessing it. Tangible personal property shall be viewed by going upon the premises where it or the greater part of it is found. The failure of the assessor to view any property shall not invalidate the assessment.

(6) The assessor shall obtain, at the expense of the city, copies of all recorded plats of land in the city. He shall keep them in his office, and mark on them all changes occurring in the ownership and in the subdivision or combination of the lots.

(7) The assessor shall take a census of the city every two (2) years.

Section 16. KRS 92.560 is amended to read as follows:

As soon as the tax levy ordinance in each city of the second class becomes in force, the auditor shall deliver the assessment books to the city clerk, who shall from them make out the tax bills. Each bill shall show each lot and the assessment thereon separately, the name of the supposed owner, the net total assessment of personal property, *other than motor vehicles governed by the provisions of KRS 132.487,* against the person and the tax thereon. The tax bills shall be so arranged that the bill for each half-year may be detached and have each part intelligible. There shall be attached to each bill a stub showing in condensed form the items and amounts in the bill, and the bills and stubs shall be numbered consecutively, the number of each stub to correspond to the bill to which it is attached. The bills and stubs shall be bound in book form. On or before April 1 of each year the clerk shall deliver the assessment books and tax bills to the auditor, and together they shall ascertain whether the sum of the tax bills equals the amount of the tax which, at the rate fixed, the total assessment should realize, and if it does not, they shall find and correct the error. When the error is corrected, the auditor shall receipt for the assessment books and tax bills. The auditor shall then deliver all tax bills to the treasurer and take his receipt for the gross amount of the bills. As soon as practicable after receiving the tax bills, the treasurer shall mail to each person against whom a tax bill has been listed, or to his guardian or conservator, a postpaid notice, directed to the best of his knowledge, stating the number and amount of the bill, the date when due and the penalties imposed for nonpayment. The failure of the treasurer to send the notice, or of the taxpayer, guardian or conservator to receive it, shall not invalidate the tax or the interest or penalties, or any subsequent proceeding for the collection thereof.

Section 17. KRS 132.285 is amended to read as follows:

(1) *Except as provided in subsection (3) of this section,* any city may by ordinance elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city. Any city making such election shall notify the Department of Revenue and property valuation administrator prior to the next succeeding assessment to be used for city levies. In such event the assessment finally determined for county tax purposes shall serve as a basis of all city levies for the fiscal year commencing on or after the county assessment date. Each city which elects to use the county assessment shall annually appropriate and pay each fiscal year to the office of the property valuation administrator for deputy and other authorized personnel allowance, supplies, maps and equipment, and other authorized expenses of the office one-half of one cent for each one hundred dollars of assessment; provided, that sums paid shall not be less than two hundred fifty dollars, nor more than forty thousand dollars in a city having an assessment subject to city tax of less than two billion dollars or fifty thousand dollars in a city having an assessment subject to city tax of more than two billion dollars. This allowance shall be based on the assessment as of the previous January 1. Each property valuation administrator shall file a claim with the city and the city shall order payment in an amount not to exceed the appropriation authorized by this section. The property valuation administrator shall be required to account for all monies paid to his office by the city and any funds unexpended by the close of each fiscal year shall carry over to the next fiscal year. Notwithstanding any statutory provisions to the contrary, the assessment dates for such city shall conform to the corresponding dates for the county, and such city may by ordinance establish additional financial and tax procedures that will enable it effectively to adopt the county assessment. The legislative body of any city adopting the county assessment may fix the time for levying the city tax rate, fiscal year, due and delinquency dates for taxes and any other dates that will enable it effectively to adopt the county assessment,

notwithstanding any statutory provisions to the contrary. Any such city may, by ordinance, abolish any office connected with city assessment and equalization; except that in the case of a city assessor who is elected by the qualified voters of the city, the office may not be abolished before the end of the term of such assessor. Any city which elects to use the county assessment shall have access to the assessment records as soon as completed and may obtain a copy of that portion of the records which represents the assessment of property within such city by additional payment of the cost thereof. Once any city elects to use the county assessment, such action cannot be revoked without notice to the Department of Revenue and the property valuation administrator six months prior to the next date as of which property is assessed for state and county taxes.

(2) In the event any omitted property is assessed by the property valuation administrator as provided by KRS 132.310 such assessment shall be considered as part of the assessment adopted by the city according to subsection (1) of this section.

(3) For purposes of the levy and collection of ad valorem taxes on motor vehicles, cities shall use the assessment required to be made pursuant to KRS 132.487(5).

Section 18. This Act shall take effect on January 1, 1985.

The Committee on Transportation reported **HB 17, HB 30** with Committee Amendment attached thereto, **HB 44, HB 46** with Committee Amendment attached thereto, **HB 66,** and **HB 176** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 17, AN ACT relating to the licensing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.1701 is amended to read as follows:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (4)(a) who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Viet Nam War, shall be issued a five (5) year license plate, for either one (1) automobile, or one (1) truck of one-half (1/2) or three-quarter (3/4) ton rating, upon application to the county clerk in the county of his residence and after payment of a twenty-five dollar ($25.00) state fee and a one dollar ($1.00) clerk's fee. Application shall be made on a form prescribed by the cabinet and shall be accompanied by written evidence from the United States *veteran's administration or any other appropriate federal agency* [~~department of defense~~] stating the period of time that the applicant was a prisoner of war.

(2) The license plates in subsection (1) of this section shall be printed in three (3) colors: red, white, and blue. Each tag shall contain the name of the state, the year, the registration number and the words "Former P.O.W." Annually thereafter, upon application to the county clerk of the county of his residence, together with proof that he is a former prisoner of war, and without payment of the registration fee provided in subsection (1) of this section, the clerk shall issue a new plate, or a renewal decal, as directed by the transportation cabinet. For services performed to renew such registration, the clerk shall receive a one dollar ($1.00) fee.

(3) (a) Upon the sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the prisoner of war license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon payment of an eleven dollars fifty cents ($11.50) state fee and a one dollar ($1.00) clerk's fee. When the prisoner of war plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1.00) clerk's fee for use on any other vehicle owned by the same person who purchased the prisoner of war plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(4) In the event a prisoner of war license plate is lost, stolen or mutilated, if the owner has not transferred a vehicle during the current license period, he may obtain a regular plate free of charge. In the event a prisoner of war license plate, within five (5) years of the date of its issue, deteriorates to the point where the inscriptions thereon are not discernible, the owner may obtain a replacement plate free of charge.

(5) License plates issued under this section shall expire on December 31.

HB 30, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.150 is amended to read as follows:

[~~(1)~~] No vehicle shall be operated upon any highway unless it is so constructed as to prevent its contents from escaping.

[~~(2) No vehicle shall be operated upon any public highway for a distance of over one (1) mile whose load is susceptible to shifting or spillage unless said load is covered with a device suitable for prevention of spillage.~~]

The Committee Amendment No. 1 to **HB 30** is as follows:

Amend printed copy of **HB 30** on page 1, after line 10, add the following language:

"Section 2. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the department a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the department may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the department and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The department for natural resources and environmental protection shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight-month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the department under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the department within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the department finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) a ten percent (10%) or more interest of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, P.L. 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three-year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of a United States geological survey topographic map or such other map acceptable to the department on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the department, of an enlarged United States geological survey topographic map or such other map acceptable to the department meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) below, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the department and shall be reasonably specific as to the work being certified. The department may reject any document or map as incomplete if it is not properly certified.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the department of transportation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. [~~All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.~~]

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the

requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the department for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the department. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued. The operator shall file with the department a bond payable to the Commonwealth of Kentucky with surety satisfactory to the department in the penal sum to be determined by the department for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the department. In determining the amount of the bond the department shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the department in the event of forfeiture. The department shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where the circumstances are such as to warrant an exception, the department, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the department shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the department require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The department shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The department shall enforce this subsection consistent with KRS Chapter 350 except that the department shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(16) The department shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The department shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the department shall require, for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.

(17) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the department are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the department might require; or

(e) Any additional revised or updated information required by the department has not been

provided;
Prior to the approval of any renewal of permit the department shall provide notice to the appropriate public authorities.

(18) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(19) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(20) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the department may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(21) Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the department determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The department shall, consistent with all applicable requirements of KRS Chapter 350, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The department shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter."

HB 44, AN ACT relating to motor vehicle transfers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.190 is amended to read as follows:

(1) Whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon such motor vehicle as a part of it until the expiration of the registration year.

(2) No person shall purchase, sell or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the current registration receipt issued on the motor vehicle and the bill of sale. *Any unexpired registration shall remain valid upon transfer of said vehicle to the new owner.*

(3) Upon delivery of the registration receipt and the bill of sale to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the transportation cabinet. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

(4) Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall immediately return the plate and receipt to the transportation cabinet. The owner shall pay to the county clerk fifty cents (50) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information as

required by the department of vehicle regulation.

Section 2. KRS 186A.215 is amended to read as follows:

(1) If an owner transfers his interest in a vehicle, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of title, and execute the applicable portions of the vehicle transaction record provided for by this chapter, and cause the vehicle transaction record with the certificate of title attached to be delivered to the transferee.

(2) Except as otherwise provided in this chapter, the transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title and registration by executing the applicable portions of the vehicle transaction record provided to him by his transferor. *Any unexpired registration shall remain valid upon transfer of said vehicle to the transferee.*

(3) The vehicle transaction record with its supporting documentation attached shall promptly be submitted to the county clerk as provided in KRS 186A.115, together with the required fees.

(4) This section shall not apply to a motor vehicle which has had the title surrendered to a county clerk or a hulk vehicle. Hulk vehicle shall mean a motor vehicle or part thereof that is:

(a) In a rusted, wrecked, discarded, worn out, extensively damaged, dismantled and mechanically inoperative condition; or

(b) Of an apparent value of less than two hundred dollars ($200).

HB 46, AN ACT relating to aviation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) An office of aeronautics is hereby created within the transportation cabinet. The office of aeronautics shall be headed by an executive director of aeronautics, who shall be appointed by the secretary of transportation.

(2) It shall be the duty of the office:

(a) To plan and assist local air boards in the development of airport facilities;

(b) To develop and maintain a federal-state relationship of programs related to air transportation, airports, air navigation aircrafts, and aviation safety;

(c) To assist any public agency or private corporation in the preservation of air transportation services;

(d) To assist any public agency or private corporation in coordinating air services with those of other transportation modes;

(e) To recommend, prepare and review plans and specifications for any project undertaken in whole or part with state or federal airport development funds;

(f) To acquire, maintain and operate aircraft by purchase, lease, or otherwise, necessary for the performance of the functions of the transportation cabinet and state government pursuant to KRS 183.024;

(g) To administer all functions of the Commonwealth in relation to aeronautics, aircraft, air transportation, airports, air navigation and related matters as provided in KRS 183.010 to 183.772.

(3) The transportation cabinet may promulgate rules and regulations for the administration of this section in accordance with the provisions of KRS Chapter 13.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government - Departments headed by elected officers:

1. The governor.

2. Lieutenant governor.

3. Department of state.

(a) Secretary of state.

(b) Board of elections.

4. Department of law.
(a) Attorney general.
5. Department of the treasury.
(a) Treasurer.
6. Department of agriculture.
(a) Commissioner of agriculture.
7. Department of education.
(a) Superintendent of public instruction.
(b) State board of education.
8. Auditor of public accounts.
9. Railroad commission.
II. Program cabinets headed by appointed officers:
1. Justice cabinet:
(a) Department of public advocacy.
(b) Department of state police.
(c) Department of training.
(d) Office of administration.
2. Education and humanities cabinet:
(a) Department for the blind.
(b) Department of education.
(c) Department for libraries and archives.
(d) Commission on human rights.
(e) Kentucky commission on women.
(f) State advisory council for vocational education.
(g) Kentucky industries for the blind.
(h) Kentucky educational television.
(i) Kentucky historical society.
(j) Kentucky teachers retirement system board of trustees.
(k) Kentucky school building authority.
3. Natural resource and environmental protection cabinet:
(a) Environmental quality commission.
(b) Kentucky nature preserves commission.
(c) Department for environmental protection.
(d) Department for natural resources.
(e) Department for surface mining reclamation and enforcement.
(f) Office of special projects.
(g) Office of administration.
(h) Office of general counsel.
(i) Office of communications and community affairs.
4. Transportation cabinet:
(a) Department of highways.
(b) Department of vehicle regulation.
(c) Office of administration and legal affairs.
(d) Office of comptroller.
(e) Office of legal affairs.
(f) *Office of aeronautics.*
(g) Kentucky turnpike authority.
(h)[~~(g)~~] Kentucky housing corporation.
(i)[~~(h)~~] Kentucky airport zoning commission.
5. Commerce cabinet:
(a) Department of economic development.
(b) Department of the arts.
(c) Department of fish and wildlife resources.
(d) Department of parks.
(e) Kentucky development finance authority.
(f) Kentucky horse park.
6. Public protection and regulation cabinet:
(a) Public service commission.
(b) Department of insurance.
(i) Custodian of insurance securities.
(c) Department of labor.
(i) Workers compensation board.

(ii) Occupational safety and health standards board.
(iii) State labor relations board.
(d) Department of housing, buildings, and construction.
(e) Department of banking and securities.
(f) Department for mines and minerals.
(g) Department for alcoholic beverage control.
(h) Kentucky harness racing commission.
(i) Kentucky state racing commission.
(j) Kentucky occupational safety and health review commission.
(k) Registry of election finance.
(l) Board of claims.
(m) Crime victims compensation board.
(n) Kentucky board of tax appeals.
(o) Backside improvement commission.
7. Cabinet for human resources:
(a) Department for health services.
(b) Department for manpower services.
(c) Department for social insurance.
(d) Department for social services.
(e) Unemployment insurance commission.
(f) Public assistance appeals board.
(g) Office of administrative services.
(h) Office of communications and council affairs.
(i) Office of general counsel.
(j) Office of inspector general.
(k) Office of policy and budget.
(l) Office of the ombudsman.
8. Finance and administration cabinet:
(a) Office for policy management.
(b) Office for program administration.
(c) Department for administration.
(d) Department of facilities management.
(e) Department of personnel.
(f) Department of information systems.
(g) State property and buildings commission.
(h) Kentucky pollution abatement authority.
(i) Kentucky savings bond authority.
(j) Deferred compensation systems.
(k) Office of equal employment opportunity contract compliance.
(l) Capital plaza authority.
(m) County officials compensation board.
(n) Financial disclosure review commission.
(o) Kentucky employes retirement systems.
(p) Commonwealth credit union.
(q) State investment commission.
9. Energy and agriculture cabinet:
(a) Department of agriculture (headed by elected officer).
(b) Department of energy production and utilization.
(c) Department of energy research and development.
(d) Office of administration.
(e) Office of policy and evaluation.
(f) Kentucky state fair board.
(g) Kentucky council on agriculture.
(h) Kentucky fair and exposition center.
(i) Tobacco research board.
10. Corrections cabinet:
(a) Parole board.
(b) Commission on corrections and community services.
(c) Department of adult correctional institutions.
(d) Office of community services.
(e) Office of administrative services.
(f) Office of corrections training.

(g) Office of general counsel.
III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of revenue.
3. Council on higher education.
4. Department of local government.

Section 3. KRS 36.010 is amended to read as follows:

The department of military affairs shall have charge of and be responsible to the governor for the proper functioning of the Kentucky national guard, militia and all other military or naval matters of the state, and shall consist of the following divisions:

(1) Administrative divisions;
(2) Veterans division;
(3) Facilities division;
(4) Active militia division;
(5) Army national guard division;
(6) Air national guard division;
(7) Kentucky civil air patrol;
(8) [~~Division of air transport and capital city airport; and~~
~~(9)~~] Kentucky center for veteran affairs.

In order to promote greater efficiency, economy and improved administration, the divisional structure of the department of military affairs may be changed, redesignated or reorganized in accordance with KRS Chapter 12.

The Committee Amendment No. 1 to **HB 46** is as follows:

Amend printed copy of **HB 46** on page 1, line 13, after the word "*navigation*" by inserting a comma ","; and

on page 1, line 13, after the word "*navigation*" by deleting the word "*aircrafts*" and adding the word "*aircraft*" in lieu thereof; and

on page 2, line 1 after "*(f)*" by deleting lines 1, 2, 3, and 4 in their entirety; and

on page 2, line 5, by deleting "*(g)*"; and

on page 9, line 12, after the "(8)" by removing the bracket; and

on page 9, line 14, after the "(9)" by removing the bracket.

HB 66, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.051 is amended to read as follows:

(1) The department of highways may keep all state rights-of-way free of the species of grass, sorghum halepense, commonly known as Johnson grass, and the species of weed commonly known as giant foxtail, both of which are noxious weeds, and the thistles cirsium arvense and carduus nutans, commonly known as Canada thistles and nodding thistles, respectively, and multiflora rose; and, upon written request from any abutting property owner engaged in a program of eradication of Johnson grass, giant foxtail, Canada thistles, nodding thistles or multiflora rose, shall cooperate with such abutting owner by eradicating such Johnson grass, giant foxtail, Canada thistles, nodding thistles, or multiflora rose from abutting state rights-of-way. The department shall take steps to eradicate such grass, weed or thistles by the use of chemicals or any other means found to be effective by the department.

(2) The department of highways shall inform property owners of the availability of said eradication program. In carrying out this responsibility the department shall, *no later than the first week in March* [~~in April~~] of every year, advertise in each county, pursuant to the provisions of KRS Chapter 424 that the program is available. The department shall stipulate in such advertisement the place and manner in which an interested property owner may make a written request for inclusion in the program.

HB 176, AN ACT relating to limited access facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.240 is amended to read as follows:

(1) The highway authorities of the state, county, city, town, and village are authorized to so design any limited access facility and to so regulate, restrict, or prohibit access as to best serve the traffic for which such facility is intended; and its determination of such design shall be final. In this connection such highway authorities are authorized to divide and separate any limited access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating such separate roadways by signs, markers, stripes, and the proper lane for such traffic by appropriate signs, markers, stripes, and other devices. No person shall have any right of ingress or egress to, from or across limited access facilities to or from abutting lands, except at such designated points at which access may be permitted, upon such terms and conditions as may be specified from time to time.

(2) The department of highways shall construct or cause to be constructed on all interstate highways and toll roads suitable public facilities to replace any structures closed by the department after July 1, 1980 at a location within five (5) miles of the previously available facility. Such facilities shall include restrooms which shall be available to the motoring public on a twenty-four (24) hour basis.

The Committee Amendment No. 1 to **HB 176** is as follows:

Amend printed copy of **HB 176** on page 2, line 3, after the word "after" delete the word "*July*" and add "*April*" in lieu thereof.

Orders of the Day

HB 1, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 1**. Agreed.

Representative Long moved that **HB 1**, as amended, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White. Nays 0.

HB 1, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 1**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 145 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 145** be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 145 was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 145** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 147, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Committee Substitute to **HB 147.** Agreed.

Representative Holbrook moved that **HB 147,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 81-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Ford, Fryman, Layman, Patrick.

HB 147, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 147,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 217, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Amendment No. 1 to **HB 217.** Agreed.

Representative Mann moved that **HB 217,** as amended, be passed.

On the roll call the vote was yeas 62-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Crupper, Donnermeyer, Dunn, Farrow, Foster, Freibert, Gray, Hancock, Head, Heleringer, Hines, Holbrook, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, Moberly, Moore, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Worthington, Yates. Nays 26-Allen, Barrows, Burnette, Craddock, Curd, Cyrus, Dawahare, Ellington, Endicott, Ford, Fryman, Guenthner, Johnson, Layman, List, McNutt, Morris, Nett, Noland, Patrick, Pearman, Robinson, F. Smith, Todd, Turner, White.

HB 217, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 217,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 276 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that **HB 276** be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 276 was passed and the title agreed to.

Representative R. Jones moved that the vote by which **HB 276** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 22, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Amendment No. 1 to **HB 22.** Agreed.

Representative Farrow moved that **HB 22,** as amended, be passed.

On the roll call the vote was yeas 79-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gray, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 8-Allen, Brown, Bruce, Endicott, Ford, Morris, Robinson, White.

HB 22, as amended, was passed.

Representative Farrow moved the adoption of the Title Amendment to **HB 22.**

The Title Amendment to **HB 22** was adopted.

Representative Farrow moved that the vote by which **HB 22,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 45 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 45** be passed.

On the roll call the vote was yeas 62-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Foster, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, T. Jones, Kidd, LeMaster, Little, Long, Lundergan, Maggard, Mann, McBee, Moberly, Moore, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, Riner, Seum, F. Smith, Stone, Thomas, White, Williams, Yates. Nays 24-Allen, Dawahare, Endicott, Farrow, Ford, Freibert, Fryman, Heleringer, Layman, Lefevers, Lile, List, McNutt, Meyer, Moore, Patrick, Richards, Robinson, Stumbo, Thomason, Todd, Turner, Van Horn, Worthington.

HB 45 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 45** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Hancock moved the adoption of the following Legislative Citation No. 7:

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and bids welcome distinguished military leader Lt. General Emmett H. Walker, Chief of the National Guard Bureau, Washington, D.C., on the occasion of his announcement of delivery of sixty-eight main battle tanks to the Kentucky National Guard. (Sponsored by Representative Hancock.)

Agreed.

Representative Holbrook filed the following Floor Amendment No. 3 to **HB 42:**

Amend printed copy of **HB 42** on page 10, as follows:

"*Section 5. The provision of this bill shall be effective as of January 1, 1985.*"

Representative Stone requested that he be recorded as voting "yea" on **HB 276.** Agreed.

Representative Cline moved that he be recorded as voting "nay" on **HB 73.** Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsors requests to be accepted. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Caldwell, **HB 195, HB 196;** Representative Ford, **HB 374;** Representative Fryman, **HB 374;** Representative Handy, **HB 255, HB 132, HB 319;** Representative Harper, **HR 13;** Representative Heleringer, **HB 64;** Representative LeMaster, **HB 1, HR 20;** Representative Perkins, **HB 32;** Representative Robinson, **HB 374;** Representative Todd, **HB 374;** Representative White, **HB 178, HCR 21.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 362, by Representative Richards: AN ACT relating to fees for processing and for collecting bad checks.

HB 363, by Representatives Bennett, Van Horn, Priddy, Gray, Cyrus: AN ACT relating to prevailing wage.

HB 364, by Representatives Gray, Clapp: AN ACT relating to motor vehicle operator's licenses.

HB 365, by Representative Gray: AN ACT relating to fishing.

HB 366, by Representatives Gray, Cyrus, Turner, Long, Ellington, Bennett: AN ACT relating to unemployment compensation.

HB 367, by Representative Clarke: AN ACT relating to income taxes.

HB 368, by Representative Clarke: AN ACT proposing to amend the Constitution of Kentucky relative to public officers.

HB 369, by Representative Cowan: AN ACT relating to service of process.

HB 370, by Representatives Yates, Blevins: AN ACT relating to state personnel.

HB 371, by Representative Holbrook: AN ACT relating to retirement.

HB 372, by Representatives Bennett, Dunn, Priddy: AN ACT relating to planning and zoning.

HB 373, by Representative Hancock: AN ACT relating to insurance.

HB 374, by Representative Ellington: AN ACT relating to annexation.

HR 29, by Representatives Heleringer and Guenthner: A RESOLUTION honoring the Trinity High School Football Team.

HCR 30, by Representatives Barrows, Bronger, Meyer, Freibert, Guenthner, Richards, Johnson, LeMaster, Blandford, and Riner: A CONCURRENT RESOLUTION directing the Legislative Program Review and Investigations Committee to study the Cabinet for Human Resources' reimbursement system for services rendered to children by private, non-profit child-caring agencies.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 314**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Judiciary-Criminal: **HB 184, HB 193.**

Report of Committees

The Committee on Health and Welfare reported **HB 175, HB 255** with Committee Amendment attached thereto, **HB 257,** and **HB 306** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 175, AN ACT relating to the collection of fees for birth certificates to be used in preventing child abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.190 is amended to read as follows:

(1) The cabinet for human resources shall, upon request, furnish any applicant a certified copy of the record of any birth, death, or other record registered with such cabinet as provided by law when the cabinet is satisfied that the applicant has a direct, tangible and legitimate interest in the information or record requested. *Any such certified copy shall be prima facie evidence of the facts therein stated.*

(2) The applicant shall pay a reasonable fee set by regulation promulgated by the secretary for human resources which shall not exceed four dollars ($4.00) for a copy of a [~~birth,~~] death[~~,~~] or other certificate or search of the files, if no copy is found. *The applicant shall pay a fee of five dollars ($5.00) for a copy of a birth certificate, one dollar ($1.00) of which shall be collected for use by the cabinet for human resources for the sole purpose of contracting for the operation of private, not for profit self-help groups for parents who want to prevent or cease their physical, sexual or mental abuse of their children* [~~*Any such certified copy shall be prima facie evidence of the facts therein stated*~~].

(3)[~~(2)~~] No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay or other allowances of any person who has at any time served as a member of the army, navy, marine corps or air force of the United States.

HB 255, AN ACT relating to the prevention, screening, diagnosis and treatment of lead poisoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.901 is amended to read as follows:

(1) The secretary shall establish a statewide program for the prevention, screening, diagnosis, and treatment of lead poisoning, including identification of the sources of such poisoning through such research, educational, epidemiological, and clinical activities as may be necessary.

(2) The secretary shall also initiate activities which:

(a) Will either provide for or support the monitoring of all medical laboratories, private and public hospitals which perform lead determination tests on human blood or other tissues, so as to insure the accuracy of such tests;

(b) Will provide laboratory testing of blood specimens for lead content, to any physician, hospital, clinic, free clinic, municipality or private organizations which cannot secure or provide such services through other sources. The cabinet shall not assume responsibility for blood lead analysis required for programs in operation on June 21, 1974;

(c) Will develop or encourage the development of appropriate programs and studies to identify sources of lead intoxication and assist other entities in the identification of lead in children's blood and the sources of that intoxication; and

(d) Will provide for or support the development of outreach programs to identify, screen, and diagnose for elevated lead blood levels, at risk persons not otherwise utilizing existing screening and diagnostic programs.

(3) The secretary may contract with any agencies, individuals, or groups for the provision of services necessary to administer KRS 211.900 to 211.905 and 211.994.

(4) The secretary may provide financial and technical assistance and consultation to local, county, or district governmental or private agencies for the promotion, establishment and maintenance of lead poisoning prevention, screening, diagnostic, and treatment programs.

(5) The secretary shall have the power to adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of KRS 211.900 to 211.905 and 211.994. The regulation shall include, but not be limited to, those which govern permissible limits of lead based substances in and about dwellings and dwelling units.

(6) Local boards of health may, by the adoption of local regulations, establish programs for the prevention, screening, diagnosis and treatment of lead poisoning; provided that such regulations are the same as or more stringent than the provisions of this section and the regulations promulgated by the secretary pursuant to subsection (5) of this section.

The Committee Amendment No. 1 to **HB 255** is as follows:

Amend printed copy of **HB 255** on page 3, line 6, by deleting the words "*this section*" and inserting in lieu thereof the following: "*KRS 211.900 to 211.905 and 211.994*"

HB 257, AN ACT relating to rights of children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 40.010 is amended to read as follows:

As used in this chapter, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Administrator" means the adjutant general of the Commonwealth;

(2) "Veteran" means a person who served in the active armed forces of the United States, during the Spanish American War, World War I, World War II, or the Korean conflict, for a period of ninety (90) days or more (exclusive of time spent AWOL; or in penal confinement as a result of a sentence imposed by court-martial; or in service for which no allowance is made according to KRS 40.040), with some portion of service within the respective hereinafter prescribed dates, who is still in the armed forces, or was released, separated, discharged or retired therefrom under honorable conditions;

(3) "Duty in active armed forces" includes active duty, and any period of inactive duty training during which the individual concerned was disabled; and if a person in the active armed forces was released, separated or discharged therefrom by reason of disability incurred in line of duty before serving as much as ninety (90) days, such person shall be qualified for entitlement to a bonus payment under this chapter, notwithstanding failure to remain in service for the minimum time otherwise prescribed;

(4) "Armed forces" means the United States army, navy, marine corps, air force and coast guard, including the reserve components thereof on active duty;

(5) "Qualified veteran" means a person answering to the specifications set forth in subsections (2) and (3), and who

(a) Was a resident of the Commonwealth at the time of entry into active service in the armed forces and for at least six (6) months prior thereto; and

(b) Who has not received a bonus or like compensation from another state; and

(c) Who is not subject to the forfeiture provisions of this chapter;

(6) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his or her place of residence at such time of entry, without regard to the place of enlistment, commission, or induction. Conclusive and exclusive, evidence of such giving of place of residence shall be the official records on file in the department of defense of the United States, or any official record thereof in the files of the veterans' administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced or destroyed, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(7) "Resident," in any context other than as in subsection (6), means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such regulations as the administrator may promulgate.

(8) "Beneficiary" means, in this order, widow, child or children (sharing equally), mother, father, and no other;

(9) (a) "Widow" means a woman who was the wife of a veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not remarried, (unless the purported remarriage was void or had been annulled);

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female veteran at the time of her death;

(10) "Child" means a person

(a) Who is under the age of eighteen (18); or

(b) Who, before attaining the age of eighteen (18) years, became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen (18) years and until completion of education or training (but not after attaining the age of twenty-one (21) years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a [~~legitimate~~] child *born in lawful wedlock*; a legally adopted child; a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death; or *a* [~~an illegitimate~~] child *born out of wedlock*, but, as to the alleged father, only if acknowledged in writing signed by him, or if he had, before his death, been judicially decreed to be the father of such child;

(11) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(12) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(13) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the north American continent, exclusive of Alaska;

(14) "Outside the continental United States" means any place elsewhere than as defined in subsection (13);

(15) "Spanish-American War"

(a) Means the period beginning on April 21, 1898, and ending on July 4, 1902;

(b) Includes the Philippine Insurrection and the Boxer Rebellion; and

(c) In the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903;

(16) "World War I"

(a) Means the period beginning on April 6, 1917, and ending on November 11, 1918; and

(b) In the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920; and

(c) Any service between April 6, 1917, and July 1, 1921, if some part thereof was between April 6, 1917, and November 11, 1918, both dates being inclusive;

(17) "World War II" means the period beginning December 7, 1941, and ending December 31, 1946;

(18) "Korean conflict" means

(a) The period beginning on June 27, 1950, and ending July 25, 1953; and

(b) Subsequent service until January 31, 1955, if the veteran was qualified for the Korean medal;

(19) "Bonus" and "veterans' bonus" means the compensation authorized by this chapter;

(20) "Bonus claim" means a claim or potential claim for a veterans' bonus;

(21) "Claimant" means one who seeks to obtain payment of a bonus claim.

Section 2. KRS 64.090 is amended to read as follows:

Sheriffs may charge and collect for the following services the following fees:

Executing and returning process	$10.00
Serving an order of court and return	3.00
Summoning each witness	2.00
Summoning an appraiser or reviewer	2.00
Attending a surveyor, when ordered by a court, per deputy or sheriff assigned	20.00
Taking any bond that he is authorized or required to take in any action	5.00

Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond given and not complied with, six per cent (6%) on the first three hundred dollars ($300) and three per cent (3%) on the residue; when he levies an execution or distress warrant, and the defendant replevies the debt, or the writ is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the plaintiff and collected as costs in the case.

Taking a recognizance of a witness	$3.00
Levying an attachment	5.00

When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of attached property shall be allowed by order of court.

Summoning a garnishee	3.00
Summoning a jury in a misdemeanor case, attending the trial, and conducting the defendant to jail, to be paid by the party convicted	8.00
Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff	10.00
Serving an order or process of revivor	3.00
Executing a writ of possession against each tenant or defendant	7.00

Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission.

Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses	8.00

Collecting militia fines and fee-bills, ten per cent (10%), to be deducted out of the fee-bill or fine.

Levying for a fee-bill	3.00
Serving a notice	2.00
Serving summons, warrants or process of arrest in [~~bastardy~~] cases *of children born out of wedlock*	6.00
Serving each order appointing surveyors of roads, to be paid out of the county levy	5.00
Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant	5.00
Like services in cases of private passways to be paid by the applicant	5.00
Executing each writ of habeas corpus, to be paid by the petitioner	3.00
All services under a writ issued under KRS 381.460 to 381.570	10.00

For services in summoning grand and petit jurors and performing his duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the state treasury for constructive service the sum of $1.50 and for personal service the sum of $3.00.

Section 3. KRS 199.480 is amended to read as follows:

(1) The following persons shall be made parties defendant in an action for leave to adopt a child:

(a) The child to be adopted;

(b) The natural living parents of a child under eighteen (18), if the child is *born in lawful wedlock* [~~legitimate~~], and its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, if the child is born out of wedlock, provided that no natural parent need be made a party defendant in the event the parental rights of such parent have been terminated under KRS 199.601 to 199.617, or under a comparable statute of another jurisdiction;

(c) The child's guardian, if it has one;

(d) If the care, custody and control of the child has been transferred to the cabinet, any other individual, institution or agency, then the cabinet, such other individual, institution or agency shall be named a party defendant.

(2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the cabinet, individual,

institution or agency has custody of such child, the service of process upon such child shall be had by serving a copy of the summons in such action upon the cabinet, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.

(3) If the child's natural living parents, if the child is *born in lawful wedlock* [~~legitimate~~], or if the child is born out of wedlock, its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

Section 4. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a [~~legitimate~~] child *born in lawful wedlock* or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that such consent of the living parent or parents shall not be required if:

(a) Such parent or parents have been adjudged mentally disabled and such judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of such parents have been terminated under KRS 199.601 to 199.617; or

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS 199.603 and consent has been given by the parent having custody and control of the child.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for such parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the natural living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of subsections (1) or (4) of KRS 199.603 exist with respect to such child.

(5) In no case shall an adoption be granted or a consent for adoption be held valid if such consent for adoption is given prior to the fifth day after the birth of the child.

Section 5. KRS 199.520 is amended to read as follows:

(1) After hearing the case the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child, and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference whatsoever to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural[~~, legitimate~~] child of the parents adopting it the same as if born of their bodies. Except where a natural parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its birth parents in respect to either personal or property rights.

(3) The clerk of the court shall notify the cabinet of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

Section 6. KRS 199.605 is amended to read as follows:

(1) If a woman, after the birth of *a* [~~an illegitimate~~] child *out of wedlock*, should give birth to one or more [~~illegitimate~~] children *out of wedlock*, the cabinet may institute action to terminate parental control of the minor children of that person. The fact of such multiple [~~illegitimate~~] births *out of wedlock* shall be prima facie evidence of the woman's unfitness to have the custody and control of said children, and if not rebutted may be considered sufficient evidence upon which to base a judgment terminating parental custody and control of such children.

(2) Action under this section shall be brought by the county attorney at the request of the cabinet.

Section 7. KRS 342.085 is amended to read as follows:

As used in this chapter:

(1) "Child" includes stepchildren, legally adopted children, posthumous children and recognized [~~illegitimate~~] children *born out of wedlock*, but does not include married children unless actually dependent;

(2) "Brother" and "sister" includes stepbrothers, stepsisters and brothers and sisters of the half blood or by adoption, but excludes married brothers or sisters unless actually dependent;

(3) "Grandchild" includes children of adopted children or stepchildren, but excludes stepchildren of

children or of adopted children and married children;

(4) "Parent" includes stepparents and parents by adoption; and

(5) "Adopted" and "adoption" include cases where the persons are legally adopted.

Section 8. KRS 391.100 is amended to read as follows:

[~~(1) The issue of a marriage found to be incestuous by the conviction of the party or by the judgment of a court during the lifetime of the parties is not legitimate.~~

~~(2)~~] The issue of all [~~other~~] illegal or void marriages is *considered as if born in lawful wedlock* [~~legitimate~~].

Section 9. KRS 406.051 is amended to read as follows:

The district court has jurisdiction of an action brought under this chapter and all remedies for the enforcement of judgments for expenses of pregnancy and confinement for a wife or for education, necessary support or funeral expenses for [~~illegitimate~~] children *born out of wedlock*. An appeal may be had to the circuit court if prosecuted within sixty days from the date of judgment. The court has continuing jurisdiction to modify or revoke a judgment for future education. All remedies under the uniform reciprocal enforcement of support act are available for enforcement of duties of support under this chapter.

HB 306, AN ACT relating to conflicts of interest.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.110 is amended to read as follows:

(1) No officer *or employe of* [~~in~~] the cabinet for human resources, *a regional community mental health-mental retardation board or a nonprofit corporation administering a regional community mental health-mental retardation program* shall sell anything to any institution, *facility or organization* under the control of the cabinet, or make any contract, in which he is personally interested, with such institution, *facility or organization.*

(2) An individual is "personally interested" in a contract if he, his spouse or any other person related to him within the third degree of consanguinity has an interest in it.

Section 2. KRS 210.990 is amended to read as follows:

(1) Any officer who violates KRS 210.110 shall be fined not less than *five* [~~two~~] hundred [~~and fifty~~] dollars *($500)* [~~($250)~~] nor more than *five* [~~one~~] thousand dollars *($5,000)* [~~($1,000)~~] *and his office or appointment shall without further action be vacant.*

(2) Any person who wilfully violates KRS 210.130 or 210.220 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(3) Any person establishing, conducting, managing or operating any DATE center without proper permit under KRS 210.610 to 210.680 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five dollars ($25.00) for the first offense, and not more than one hundred dollars ($100) for each subsequent offense. Each day of continuing violation shall be considered a separate offense.

Announcements

The following meetings were announced:

Committee on Rules: On adjournment, State Reception Room.

Judiciary-Criminal: 15 minutes after adjournment, Room 104.

Cities: 8:30 a.m., Wednesday.

Agriculture and Small Business: 9:00 a.m., Wednesday.

Judiciary-Civil: 12 noon, Wednesday.

Adjournment

Representative LeMaster moved the the House adjourn until 1:00 p.m., Wednesday, January 18, 1984.

On the roll call the vote was yeas 73-Allen, Arnold, Bendl, Blevins, Bronger, Bruce, Burch, Caldwell, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gray, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 5-Guenthner, Handy, Maggard, Overstreet, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 18, 1984

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Jim Roberts, Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Guenthner and Hines.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 17, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 26, SB 27, SB 37, SB 56, SJR 1,** and **SCR 12.**

Introduction of Bills and Resolutions

HB 375, by Representatives Kenton and Johnson: AN ACT relating to statute revision.

HB 376, by Representatives Kenton, Bendl, and Moberly: AN ACT relating to children.

HB 377, by Representatives Dunn, Bennett, Barrows, Bendl, Blandford, Bronger, Bruce, Burch, P. Clark, Cowan, Crupper, Donnermeyer, Handy, Head, Heleringer, Kidd, LIle, Lundergan, Maggard, Nett, Priddy, Rapier, Richards, Riner, Seum, B. Smith, Stumbo, and Yates: AN ACT relating to the location of correctional institutions.

HB 378, by Representative Burch: AN ACT relating to licensing of public dental laboratories.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 367.**

Banking and Insurance: **HB 359.**

Counties and Special Districts: **HB 371, HB 362.**

Education: **SB 24, SB 89.**

Health and Welfare: **HB 361.**

Judiciary-Civil: **HB 369.**

Judiciary-Criminal: **HB 364.**

Labor and Industry: **HB 366.**

Natural Resources and Environment: **HB 365.**

State Government: **HB 368, HB 372, HB 370, HCR 30.**

Transportation: **HB 360.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 243, HB 298.**

Judiciary-Civil: **HB 315, HB 316, HB 32.**

Counties and Special Districts: **HB 11, HB 26, HB 27, HB 118, HB 294, HB 311.**

Report of Committees

The Committee on Rules reported **HB 158, HB 166, HB 187, HB 225,** and **HB 293** have been posted for passage in Orders of the Day, January 23, 1984.

The Committee on Rules reported **HB 122** has been recommitted to the Committee on Education.

The Committee on Agriculture and Small Business reported **HB 75** and **HB 113** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 75, AN ACT relating to business regulation and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.020 is amended to read as follows:

(1) There is hereby created an agency of the state government to be known as the department of economic development, which shall constitute a department of the state government within the meaning of KRS chapter 12. The department shall consist of a commissioner and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.141, shall be organized into an office of business development, an office of tourism development, an office of community development, and a division of administrative services, *a business information clearinghouse* and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the department of economic development. The commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the commerce cabinet and the secretary of the department of finance, when such contracts are deemed necessary to implement and carry out the program of the department.

(4) The office of business development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of research and planning, a division of small and minority business development, a division of industrial development and the Kentucky port and river development commission, each headed by directors appointed pursuant to KRS 12.050.

(5) The office of tourism development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of marketing and information and a division of travel development each headed by directors appointed pursuant to KRS 12.050.

(6) The office of community development shall be headed by an executive director appointed pursuant to KRS 12.050 and shall consist of a division of community programs responsible for the administration of Title I of the Housing and Community Development Act of 1974 as amended through 1981, which includes the community development block grant program and the 107 technical assistance program, and a division of community assistance responsible for community assistance and revitalization and the

administration of the governor's economic achievement recognition program each headed by a director appointed pursuant to KRS 12.050.

(7) The division of administrative services shall be headed by a director appointed by the commissioner pursuant to KRS 12.050 and shall provide administrative and fiscal service support and perform all personnel functions for both the department and the office of the secretary of the commerce cabinet.

(8) The business information clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed pursuant to KRS 12.050. The branch shall provide comprehensive information on all state business licenses and requirements, and shall develop and administer a master application and licensure program for grocery stores.

Section 2. KRS 152.950 is amended to read as follows:

As used in KRS 152.952 to 152.958, unless the context otherwise requires:

(1) "Division" means the division of small business assistance.

(2) "Director" means the director of the division.

(3) [~~"Task force" means the task force on business registration and licensing as established in KRS 152.954.~~

~~(4)~~] "Council" means the small business advisory council as established in KRS 152.956.

(4)[~~(5)~~] "Small business" means a business entity organized for profit, including but not limited to any individual partnership, corporation, joint venture, association or cooperative, which entity:

(a) Is not an affiliate or subsidiary of a business dominant in its field of operation; and

(b) Has twenty (20) or fewer full-time employes or no more than the equivalent of one million dollars ($1,000,000) in annual gross revenues in the preceding fiscal year.

(5) "Clearinghouse" means the business information clearinghouse.

(6) "Manager" means the manager of the clearinghouse.

(7)[~~(6)~~] "Master application" means the document designed by the *clearinghouse* [~~division~~] for public use in supplying all information necessary for individual state agency approval for licenses the Commonwealth requires for any person subject to the provisions of KRS 152.952 to 152.958.

(8)[~~(7)~~] "Master license" means the document designed for public display issued by the *clearinghouse* [~~division~~] which authorizes individual state agency approval for licenses the state requires for any person subject to the provisions of KRS 152.952 to 152.958.

(9)[~~(8)~~] "License" means any agency permit, license, certificate, approval, registration, charter, or any form of permission required by law, including agency rule, to engage in any *business* activity.

(10) "Issuing agency" means any organizational unit of state government legally authorized to issue, suspend, continued in effect, revoke or enforce any license.

(11) "Grocery store" means any retail business that derives fifty percent (50%) or more of its gross receipts from the sale of food products, beverages and common household goods except those businesses selling exclusively fully prepared foodstuffs.

(12) "Business" means any operation required to have a sales and use tax permit pursuant to KRS Chapter 139.

Section 3. KRS 152.952 is amended to read as follows:

(1) There is established within the department a division of small business assistance.

(2) The duties of the division shall be:

(a) [~~To provide staff assistance to the task force;~~

~~(b) To effectuate the recommendations of the task force;~~

~~(c)~~] To collect, summarize and disseminate information helpful to minority businesses, including information on:

1. Market research;
2. New business opportunities;
3. Federal, state and local minority business programs; and
4. The availability of managerial assistance programs within the state educational system;

(b)[~~(d)~~] To assist minority businesses with federal, state and local government agencies, regulations and procurement programs.

(c)[~~(e)~~] Provide staff assistance to the council;

(d)[~~(f)~~] Provide information on federal, state and local small business programs and regulations; and

(e)[~~(g)~~] Make referrals to managerial assistance programs within the state educational system.

(3) The director is designated a small business ombudsman and shall:

(a) Receive and refer complaints of small business to the council and the appropriate administrative bodies;

(b) Coordinate the activities of all administrative bodies performing functions affecting the operation of small business in the Commonwealth;

(c) Represent the interests of the council and small businesses in the Commonwealth before federal, state and local administration and regulatory agencies; and

(d) Prepare an annual report of the activities and recommendations of the council and submit the report to the governor and the appropriate legislative committee having jurisdiction over small business matters.

Section 4. KRS 152.958 is amended to read as follows:

(1) The *manager of the clearinghouse* [~~director of the division~~] may promulgate administrative regulations as may be necessary to effectuate the provisions of KRS 152.952 to 152.956, *including, but not limited to:*

(a) Regulations establishing reasonable time schedules for agency response to license applications for licenses included in the program where such time schedules have not been set by statute;

(b) Regulations establishing procedures to delete from the master license any licenses which expire or are suspended or revoked by the issuing agency; and

(c) Regulations establishing procedures for the issuance of such temporary licenses as may be authorized by other law for licenses included in the program.

The *manager* [~~director~~] may confer with the interim legislative committee having jurisdiction over small business prior to submitting new regulations.

(2) Irrespective of any authority delegated to the *clearinghouse* [~~division~~] to implement the provisions of KRS 152.952 to 152.956, the authority for determining if any requested license shall be issued *and the authority to suspend, continue in effect, revoke, or enforce a license which is a part of the master license shall remain with the issuing agency* [~~shall remain with the agency otherwise legally authorized to issue the license~~].

SECTION 5. A NEW SECTION OF KRS 152.952 TO 152.958 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the department a business information clearinghouse.

(2) By January 1, 1985, the clearinghouse shall develop and maintain a current list of all licenses arranged by the Standard Industrial Classification (SIC) developed by the U.S. Department of Labor or similar classification system as may be developed by the clearinghouse.

(3) The clearinghouse shall, to the extent possible, develop and distribute informational packets for each business classification. The informational packet for each business classification shall include applications, fee schedules and informational bulletins for the licenses most commonly required of businesses within that classification.

(4) The clearinghouse shall provide a toll-free telephone and referral service for the entire Commonwealth to aid new and continuing businesses with the licensing process.

(5) The clearinghouse shall maintain current information on other agencies' programs that provide business financing and management assistance and shall serve as a referral service to those programs.

(6) The manager shall encourage federal and local governments to participate by submitting copies of application forms for licenses applicable to businesses in the Commonwealth.

(7) The clearinghouse shall prepare an annual report summarizing its work for the governor and the general assembly. In addition to other information specifically required to be in this report by this Act, the report shall include a list of all licenses arranged by business classification and agency and may include recommendations on necessary statute or regulation changes to enable agencies to simplify or consolidate regulatory activities.

SECTION 6. A NEW SECTION OF KRS 152.952 TO 152.958 IS CREATED TO READ AS FOLLOWS:

(1) The clearinghouse shall develop and administer a master application and licensure program for new grocery store operations. The clearinghouse shall also establish a agency-wide system of common business identification for businesses included in the program.

(2) After the implementation of the program for new grocery stores, the clearinghouse shall develop and administer a master licensure program to replace the renewals for licenses included in the program.

(3) The clearinghouse may convene a preapplication conference in which the issuing agencies will outline their licensing requirements in regards to the applicant's project and, when applicable, plans will be developed to consolidate data compilation and submission regarding licensing requirements for licenses included in the program. The clearinghouse may also convene a consolidated hearing to serve in place of any or all informational hearings that may be otherwise allowed or required by law for licenses included in the program. Such consolidated hearings shall not include contested case hearings.

(4) The clearinghouse shall conduct reviews of all licenses included in the program, the reporting and inspection policies associated with those licenses and any other requirements that are imposed on the licensees. The clearinghouse shall make recommendations in its annual report on eliminating unnecessary licenses and requirements and on consolidating reports and inspections.

(5) Notwithstanding other statutes, the master license issued by the clearinghouse shall exclusively represent issuing agency approval for each license listed on the master license.

SECTION 7. A NEW SECTION OF KRS 152.952 TO 152.958 IS CREATED TO READ AS

FOLLOWS:

(1) Each agency shall appoint a licensing coordinator to assist the clearinghouse in assembling the initial licensing information and to immediately notify the clearinghouse of changes in licensing requirements. The licensing coordinator shall also arrange for agency representation at preapplication conferences and consolidated hearings. The licensing coordinator shall inform the manager of any confidentiality standards associated with any license included in the program.

(2) Employes of the clearinghouse shall comply with the same confidentiality standards that apply to the employes of the issuing agencies for any license included in the program and shall be subject to any penalties that apply to the violation of such confidentiality standards.

SECTION 8. There is established a task force on business licensing to act in an advisory capacity to the clearinghouse and to monitor the program. The task force shall also study the desirability of expanding the master application and licensure program to other business classifications and, if appropriate, recommend criteria to be used in expanding the program to other business classifications. The task force shall complete its work and report on this study to the governor and general assembly by July 1, 1985. The task force shall include:

(1) One (1) representative of a regulatory agency to be appointed by the governor;

(2) The secretary of the department of revenue or his designee;

(3) One (1) representative of a professional or occupational licensure board to be appointed by the governor;

(4) Two (2) representatives of small business to be appointed by the governor, who shall also designate one (1) of these appointments to be chairman;

(5) The speaker of the house of representatives or his designee; and

(6) The president pro tem of the senate or his designee.

SECTION 9. A NEW SECTION OF KRS 152.952 TO 152.958 IS CREATED TO READ AS FOLLOWS:

Any person desiring to open a new business or additional business locations in the Commonwealth after the effective date of this Act is required to obtain a general business license. This license shall be valid for the duration of the new business or additional location, but shall expire upon discontinuation of the new business or additional location or upon a change of ownership. This license shall be administered by the clearinghouse and the maximum fee for this license shall be ten dollars ($10). Fees shall be deposited in a trust and agency account and shall be used by the clearinghouse in performing its assigned duties.

SECTION 10. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

Any person who opens a new business or additional business location in this Commonwealth without a general business license as required by this Act shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100).

Section 11. There is appropriated to the clearinghouse out of the General Fund a sum of fifty thousand dollars ($50,000) for Fiscal Year 1984-85.

Section 12. KRS 152.954, task force on business registration and licensing, is repealed.

HB 113, AN ACT relating to business regulation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.381 is amended to read as follows:

In the event any insurer dissolves or retires from this state, either voluntarily or involuntarily, during any calendar year, the dissolution or retirement shall not defeat or excuse the filing of reports and assessment and collection of taxes imposed by KRS 136.330 to *136.395* [~~136.400~~], 299.530, 304.4-030, and 342.450, with respect to premiums written or deposits held during that part of the calendar year prior to the dissolution or retirement from this state.

Section 2. KRS 136.980 is amended to read as follows:

If any tax imposed by KRS 136.330 to *136.395* [~~136.400~~], 299.530, 304.4-030 and 342.450, whether assessed by the department, or the taxpayer, or any installment or portion of any tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the department. If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one percent (1%) of the tax for each month the tax remains unpaid.

Section 3. KRS 136.985 is amended to read as follows:

If any taxpayer fails to make and file a return required by KRS 136.330 to *136.395* [~~136.400~~], 299.530, 304.4-030 and 342.450, on or before the due date of the return or the due date as extended by the department, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the department shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax.

Section 4. KRS 138.570 is amended to read as follows:

(1) A license shall be required of each special fuels dealer [~~and each special fuels user-seller~~].

(2) Application for a license shall be made to the department upon forms prepared and furnished by the department. The application shall contain such information as the department deems necessary.

(3) Concurrently with the filing of an application for a license, the special fuels dealer shall file with the department a bond as required under KRS 138.575. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.575 to secure payment of taxes, penalties and interest imposed by KRS 138.560 to 138.640. [~~No bond shall be filed with an application for special fuels user-seller license.~~]

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with, the department shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the department, or if the department is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the department may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The department shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 5. KRS 214.990 is amended to read as follows:

(1) Every head of a family who wilfully fails or refuses and every physician who fails or refuses to comply with KRS 214.010 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each day he neglects or refuses to report. Repeated failure to report is sufficient cause for the revocation of a physician's certificate to practice medicine in this state.

(2) Any owner or person having charge of any public or private conveyance, including watercraft, who refuses to obey the rules and regulations made by the cabinet for human resources under KRS 214.020 shall, for each offense, be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than ten (10) nor more than sixty (60) days, or both.

(3) Any physician or other person legally permitted to engage in attendance upon a pregnant woman during pregnancy or at delivery who fails to exercise due diligence in complying with KRS 214.160 and 214.170 shall be fined not less than five dollars ($5.00) nor more than ten dollars ($10.00).

(4) [~~Any person who violates any of the provisions of KRS 214.190 to 214.270 shall be fined not less than one hundred dollars ($100) or imprisoned in the county jail for not more than ninety (90) days, or both.~~

~~(5)~~] Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense, or imprisoned in the county jail for not less than three (3) months nor more than six (6) months, or both.

(5)[~~(6)~~] Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than sixty (60) days, or both.

Section 6. KRS 234.330 is amended to read as follows:

(1) A license shall be required of each liquefied petroleum gas motor fuel dealer [~~and each liquefied petroleum gas motor fuel user-seller~~].

(2) Application for a license shall be made to the department upon forms prepared and furnished by the department. The application shall contain such information as the department deems necessary.

(3) Concurrently with the filing of an application for a license, a liquefied petroleum gas motor fuel dealer shall file with the department a bond as required under KRS 234.340. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 234.340 to secure payment of taxes, penalties and interest imposed by KRS 234.310 to 234.440. [~~No bond shall be filed with an application for a liquefied petroleum gas motor fuel user-seller license.~~]

(4) The application in proper form having been accepted for filing, the bond, if required, having been accepted and approved and the other conditions and requirements of this section having been complied with,

the department shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the department, or if the department is of the opinion that the person who makes the application as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not for sufficient cause, the department may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The department shall keep and file all applications and bonds, with an alphabetical index thereof.

Section 7. The following sections of the KRS are repealed:
136.400 Burial association license tax and organization fee.
181.810 Competing bridges and ferries must have permit.
183.540 Intrastate certificates of convenience and necessity -- Charter permits -- Hearings.
214.190 Appliances for prevention of venereal diseases -- License required for sale.
214.200 Kinds of licenses for sale of appliances -- Form -- Display -- Business authorized.
214.210 Issuance of licenses -- Fees.
214.220 Revocation of licenses.
214.240 Restrictions as to methods of sale.
214.250 Appliances to meet certain requirements.
214.260 Rules for enforcement of appliance law.
214.270 Confiscation of appliances.
280.010 Definitions for KRS 280.020 to 280.130.
280.020 Certificate of convenience and necessity required to operate toll bridge or ferry connecting with state primary road system.
280.030 Application for certificate -- When granted.
280.040 Operations to comply with certificate, rules of bureau and statutes.
280.060 Annual report.
280.070 Report of accidents -- Interruptions to service.
280.080 Bureau of highways to enforce law -- Power to regulate rates and service and require reports.

280.090 Inspection of bridges and ferries.
280.100 Suspension or revocation of certificate -- When bureau to operate bridge or ferry.
280.110 Hearings -- Appeals.
280.120 Warning signs and lights on roads approaching ferry.
280.130 Mooring of ferry boats -- Docks -- Aprons.
280.140 Consolidation of corporations operating toll bridges across boundary streams.
280.150 Ownership or interest in more than one bridge forbidden.
280.160 Reorganization of insolvent companies operating bridges across boundary streams.
280.170 Application of KRS 280.180 to 280.290.
280.180 Establishment of ferries -- Granting and sale of ferry privileges.
280.190 Distances between ferries -- Establishment in cities -- Unauthorized competition.
280.200 Bond of owner or operator of ferry.

The Committee on Cities reported **HB 241** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 241, AN ACT relating to pensions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.580 is amended to read as follows:

(1) The policemen's and fire fighter's pension fund in cities of the third class shall consist of:

(a) *Revenues of the city authorized to be paid by the city legislative body, which shall be not less than the amount contributed by the members of the police and fire departments* [~~The proceeds of an annual tax, which may be levied by the city legislative body, in accordance with the limitations and procedures of KRS 132.027, on each one hundred dollars ($100) in value of taxable property~~].

(b) All rewards, fees, gifts and emoluments paid or given on account of extraordinary service of any member of the police or fire department.

(c) Assessments, which the board of trustees of the pension fund may make, upon each member of the police and fire departments, of not less than one percent (1%) nor more than four percent (4%) of his salary, to be withheld from the monthly salary and paid by the city treasurer into the pension fund.

(2) Both the principal and interest of the pension fund shall be applicable to the payment of pensions in cities of the third class.

Section 2. KRS 95.627 is amended to read as follows:

(1) The policemen's and fire fighter's pension fund in cities of the third class shall consist of:

(a) *Revenues of the city authorized by the city legislative body, which shall be not less than the amount contributed by the members of the police and fire departments* [~~The proceeds of an annual tax levied by the board of commissioners or council, the amount to be determined by the commissioners or council~~]. Policemen and fire fighters shall contribute the same rate as social security from their salary.

(b) All rewards, fees, gifts and emoluments paid or given on account of extraordinary service of any member of the police or fire department.

(2) Both the principal and interest of the pension fund shall be applicable to the payment of pensions in cities of the third class.

Section 3. KRS 95.629 is amended to read as follows:

(1) In case of insufficient funds the city will be held responsible for the payment of the monthly payments of the pension fund after the entire proceeds of said pension fund have been transferred to the general fund of the city of the third class.

(2) *Revenues of the city authorized by the city legislative body* [~~The tax which is to be levied by the board of commissioners or council~~] to support the pension fund shall be computed by determining the amount needed to meet the monthly requirements of KRS 95.621 to 95.629.

Section 4. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of (a) *revenues of the city authorized by the city legislative body, which shall be not less than the amount contributed by the members of the police and fire departments* [~~the proceeds of an annual tax, which may be levied by the city legislative body, in accordance with the limitations and procedures of KRS 132.027, on each hundred dollars ($100) in value of taxable property~~]; (b) all rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department; (c) assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 1/2%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund. Beginning July 15, 1982 and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

Section 5. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service [~~by the levy of a tax, in accordance with the limitations and procedures of KRS 132.027, on each one hundred dollars ($100) value of taxable property in the city, the proceeds of that tax to be paid to the pension fund in cash~~], and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every three (3) years after an actuarial survey of the fund, and shall be in effect for a period of at least three (3) years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and *contributes city funds* [~~levies a tax~~] therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

Section 6. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a pension fund for the benefit of employes under civil service [~~by the levy of a tax, in accordance with the limitations and procedures of KRS 132.027, on each one hundred dollars ($100) value of taxable property in the city~~], and may assess monthly such amount or percent of the salary of employes as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employe. *The city legislative body shall contribute city revenues to the fund which shall be not less than the contributions of the employes.*

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension, not to exceed one-half (1/2) of the monthly salary of any employe at the time of his retirement.

(3) When any city of the third class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and *contributes city funds* [~~levies a tax~~] therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

Section 7. KRS 67A.320 is amended to read as follows:

(1) Any urban-county government in which there existed a municipality which had in effect an employes' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the said pension fund for those employes covered by the said pension fund [~~by a levy of a tax of not exceeding five cents ($.05) on each one hundred dollars' value of taxable property in the urban area of the urban-county government, as established in the comprehensive plan or by ordinance, the proceeds of that tax to be paid to the pension fund in cash~~], and shall in each case provide[~~, by such tax or otherwise,~~] for the payment to the pension fund in each month of the sum necessary to maintain such fund in accordance with the actuarial principles established by the actuarial studies described hereafter, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, and in any case not in excess of eight percent (8%) of the monthly salary of each employe unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employes' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the urban-county government, provide for the performance of an actuarial study, which study shall be completed within six (6) months thereafter, and which study shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the said fund, including any payments required to bring said fund to an actuarially sound position in the event that it was not so at the time of the performance of the study, in which latter event the legislative body shall also determine a

reasonable period over which such additional funding shall be made, which period shall not exceed thirty (30) years. A similar study shall be arranged by the board at the cost of the urban-county government at least once in every three-year period thereafter. In the event that fund created by this section is extended to cover employes not described in the first sentence hereof, the actuarial study shall determine the required payments so as to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain such fund as set out herein; and shall assess against the additional covered employes the same monthly contribution as is required for other government employes.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The urban-county government shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of this section in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

(3) The pick up of employe contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employe retirement benefit is based.

(4) There is hereby created a board for the existing employes pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the department of finance, the director of the division of personnel, and three (3) civil service employes to be elected to the board by those employes covered by the employes' pension fund. In the event that there is no position in the urban-county government denominated secretary of the department of finance and/or director of the division of personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

(5) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(7) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employes frequent and report.

The Committee On Judiciary-Criminal reported **HB 195, HB 200,** and **HB 229** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 195, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

Persons convicted of violation of KRS 510.040, rape in the first degree, shall not be eligible for parole or other form of early release until they have served at least two-thirds (2/3) of the sentence of imprisonment which was imposed upon them.

Section 2. KRS 533.060 is amended to read as follows:

(1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony and the commission of such offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, such person shall not be eligible for probation, shock probation or conditional discharge.

(2) When a person has been convicted of a felony and is committed to a correctional facility maintained by the corrections cabinet and released on parole or has been released by the court on probation, shock probation, or conditional discharge, and is convicted or enters a plea of guilty to a felony committed while on parole, probation, shock probation, or conditional discharge, such person shall not be eligible for probation, shock probation, or conditional discharge and the period of confinement for that felony shall not run concurrently with any other sentence.

(3) When a person commits an offense while awaiting trial for another offense, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which said person is awaiting trial.

(4) When a person is convicted of or pleads guilty to violation of KRS 510.040, rape in the first degree, he shall not be eligible for probation, shock probation, conditional discharge or other form of similar early release.

HB 200, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of loitering for prostitution purposes when he loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution.

(2) Loitering for prostitution purposes is a:

(a) Violation for the first offense;

(b) Class B misdemeanor for the second offense; and

(c) Class A misdemeanor for each subsequent offense.

Section 2. KRS 525.090 is amended to read as follows:

(1) A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in activity defined by KRS 528.010(10); or

(b) [~~Loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution; or~~

~~(c)~~] Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

(c)[~~(d)~~] Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

(d)[~~(e)~~] Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services.

(2) Loitering is a violation.

HB 229, AN ACT relating to pretrial detention.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

No person shall be detained in jail prior to trial for any offense defined in KRS 431.060, 500.080, or 532.020 as a violation unless:

(1) He has previously failed to make a court appearance required in connection therewith; or

(2) Is a fugitive from justice.

The Committee on State Government reported **HB 126** and **HB 350,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 126, AN ACT relating to the office of state geographer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) There is created the office of state geographer. The state geographer shall be appointed by the governor and shall serve at the governor's pleasure. The state geographer shall serve without compensation.

(2) The state geographer shall be a person who holds a graduate degree in geography from an accredited college or university and who has demonstrated a professional knowledge of Kentucky geography through his teaching or research activities.

(3) To the extent funds permit, the state geographer shall:

(a) Utilize the facilities of geography departments of major universities in the state;

(b) Advise state officials and agencies on geographic matters;

(c) Serve as a resource for teachers of geography and for publishers of geography textbooks and atlases;

(d) Assist state and local officials with boundary studies;

(e) Advise state and local agencies on mapping and cartographic programs;

(f) Assist state and local officials with planning, zoning and land-use studies;

(g) Cooperate with other states in exchanging geographic information; and

(h) Compile, analyze and disseminate geographic information necessary to perform the foregoing duties.

HB 350, AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, at least *ninety (90)* [~~fifty-five (55)~~] days before the primary election, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled, if a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ____________ request that the name of ________________ be placed before the voters of the city as that of an applicant for nomination for the office of ________________ at the primary election to be held in our city on the fourth Tuesday in August , ________. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	$ Number	Street
____________________	____________________	____________________
____________________	____________________	____________________"
____________________	____________________	____________________

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the

primary.

(5) Subsection (4) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(6) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at-large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(7) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(8) Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(9) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(10) At the regular election following a nonpartisan primary election, the names of the successful nominees shall be placed before the voters.

(11) The nominee receiving the greater number of votes cast for each city office shall be elected.

(12) General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 2. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) All primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the *first* [~~fourth~~] Tuesday *after the fourth Monday* in *May* [~~August~~] of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 3. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by law for holding the primary election. Candidates for [~~all state~~] offices *to be voted for by the electors of more than one (1) county, and for members of congress and members of the general assembly,* shall file their nomination papers with the secretary of state not less than ninety (90) days before the day fixed by law for holding the primary election.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate. The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.

Section 4. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the

ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the primary election.

(5) Not less than forty-five (45) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 5. Whereas, this Act changes the date for holding the primary election to the first Tuesday after the fourth Monday in May, beginning in 1984, and this Act requires candidates to file ninety (90) days before the date of such primary election, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 350** is as follows:

HB 350, AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, at least *ninety (90)* [~~fifty-five (55)~~] days before the primary election, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled, if a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of .... request that the name of ________________ be placed before the voters of the city as that of an applicant for nomination for the office of ________________ at the primary election to be held in our city on the fourth Tuesday in August, ________. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name Number Street

____________________ ____
____________________ ____
____________________ ____"

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(5) Subsection (4) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(6) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at-large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(7) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(8) Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(9) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(10) At the regular election following a nonpartisan primary election, the names of the successful nominees shall be placed before the voters.

(11) The nominee receiving the greater number of votes cast for each city office shall be elected.

(12) General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 2. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) All primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the *first* [~~fourth~~] Tuesday *after the fourth Monday* in *May* [~~August~~] of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 3. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by law for holding the primary election. Candidates for [~~all state~~] offices *to be voted for by the electors of more than one (1) county, and for members of congress and members of the general assembly,* shall file their nomination papers with the secretary of state not less than ninety (90) days before the day fixed by law for holding the primary election.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate. The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.

Section 4. KRS 118.215 is amended to read as follows:

(1) Not less than *seventy-five (75)* [~~forty-five (45)~~] days before a primary [~~or regular~~] election *or*

forty-five (45) days before a regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device under which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) All independent candidates whose nominating petitions are filed with the county clerk shall be listed under the word "independent," in one column according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section does not apply to candidates for municipal offices which comes under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged under and beneath the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be separated from the preceding or succeeding groups by a line transversing the entire ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state board of elections not less than 35 days before the primary or general election. The state board of elections shall meet within 5 days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

Section 5. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots under the designation of the respective offices, the secretary of state shall prepare lists of the counties of each congressional district of the state. He shall then arrange the surnames of all candidates for each office in alphabetical order for the first congressional district, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the secretary of state, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *eighty-eight (88)* [~~fifty-three (53)~~] days before the primary [~~or general~~] election *or fifty-three (53) days before the general election.*

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, fifty-three (53) days before the primary or general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the state board of elections, as provided in KRS 118.215.

Section 6. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in

this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *eighty-eight (88)* [~~fifty-three (53)~~] days before the primary election.

(5) Not less than *seventy-five (75)* [~~forty-five (45)~~] days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 7. Whereas, this Act changes the date for holding the primary election to the first Tuesday after the fourth Monday in May, beginning in 1984, and this Act requires candidates to file ninety (90) days before the date of such primary election, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Calendar

HB 167, HB 259, HB 205, HB 208, HB 17, HB 30, HB 44, HB 46, HB 66, HB 176, HB 175, HB 255, HB 257, and **HB 306** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 42, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Floor Amendment No. 1 to **HB 42** be laid on the Clerk's desk until Monday, January 23.

On the roll call the vote was yeas 21-Arnold, Barrows, Bendl, Bennett, Bronger, Brown, Caldwell, P. Clark, Dunn, Fryman, Handy, Johnson, R. Jones, Kenton, Little, McNutt, Overstreet, Petty, Thomason, Turner, Van Horn. Nays 51-Blandford, Blevins, Brinkley, Bruce, Burch, Burnette, Clapp, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Harper, Holbrook, T. Jones, LeMaster, Lile, List, Lundergan, Maggard, Mann, Meyer, Moberly, Moore, Nett, Noe, Patrick, Pearman, Perkins, Rapier, Richards, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, White, Worthington, Yates.

The motion that **HB 42** be laid on the Clerk's desk was rejected.

Representative Pearman moved the adoption of Floor Amendment No. 1 to **HB 42.** Agreed.

Representative Holbrook moved the adoption of the Floor Amendment No. 3 to **HB 42.** Agreed.

Representative Holbrook moved that **HB 42,** as amended, be passed.

On the roll call the vote was yeas 76-Allen, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Rapier, Rattliff, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Williams, Worthington, Yates. Nays 13-Arnold, Barrows, Bendl, Crupper, Hancock, Handy, Noe, Perkins, Petty, Priddy, Robinson, Van Horn, White.

HB 42, as amended, was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 42,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 169, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Harper moved the adoption of the Committee Amendment to **HB 169.** Agreed.

Representative Harper moved that **HB 169,** as amended, be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 1-Endicott.

HB 169, as amended, was passed and the title agreed to.

Representative Harper moved that the vote by which **HB 169,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that **HB 40** be recommitted to the Committee on Health and Welfare. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved the adoption of the following **SCR 12:**

SCR 12, A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives do adjourn on Wednesday, January 18, 1984, they do so to convene again on Monday, January 23, 1984, at a time set by motion upon adjournment.

SCR 12 was adopted by voice vote.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 379, by Representatives Gray, Clapp, and Petty: AN ACT relating to fire district taxes.

HB 380, by Representatives B. Smith, Cyrus, Deskins, Robinson, Lundergan, Kidd, and Blevins: AN ACT proposing an amendment to the Kentucky Constitution relating to the terms of office of senators and representatives.

HB 381, by Representatives B. Smith, P. Richardson, Fryman, Lefevers, Ford, Rattliff, Noland, Farrow, R. Jones, P. Clark, Freibert, Turner, and Blevins: AN ACT relating to inheritance taxes.

HB 382, by Representative Worthington: AN ACT relating to covered wooden bridges.

HB 383, by Representative Farrow: AN ACT relating to powers of the deputy county judge/executive.

HB 384, by Representative Patrick: AN ACT relating to crimes and punishments.

HB 385, by Representative Hancock and P. Richardson: AN ACT relating to excise taxes.

HB 386, by Representative Hancock, Craddock, Harper, and List: AN ACT relating to consumer protection.

HB 387, by Representative B. Richardson: AN ACT changing the classification of the City of Park City in Barren County.

HB 388, by Representative Johnson: AN ACT relating to venue.

HB 389, by Representative Rapier: AN ACT relating to public accountants.

HB 390, by Representative Burch: AN ACT relating to horse racing.

HB 391, by Representative Seum: AN ACT relating to motorcycle helmets.

HB 392, by Representative Burch: ANA CT relating to horse racing.

HB 393, by Representative Burch: AN ACT relating to equine industry.

HB 394, by Representatives Patrick, Blevins, and Caldwell: AN ACT relating to insurance.

HB 395, by Representatives Patrick, Caldwell: AN ACT relating to elementary and secondary education.

HB 396, by Representative Priddy: AN ACT relating to polygraph examinations.

HB 397, by Representatives Priddy, Bennett, and P. Clark: AN ACT relating to waste disposal.

HB 398, by Representative Priddy: AN ACT relating to underground mining.

HR 31, by Representatives LeMaster, List, Van Horn, Lundergan, Kenton, and Freibert: A RESOLUTION honoring the University of Kentucky Cheerleading Squad.

HR 32, by Representative Pearman: A RESOLUTION amending Rule 40 of the Rules of the House of Representatives.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 356, HB 43, HB 88.**

Cities: **HB 351.**

Report of Committees

The Committee on Judiciary-Civil reported **HB 39, HB 114,** and **HB 307** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 39, AN ACT relating to guardianship.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

The court shall give preference to people who meet the following qualifications when appointing a person as guardian or conservator:

(1) Kinship to respondent;
(2) Education and business experience of applicant;
(3) Capability to handle financial affairs; and
(4) Ability to carry out the requirements set forth in KRS 387.660 to 387.710 and 387.750.

HB 114, AN ACT relating to descent and distribution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased.

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, *unless otherwise provided by a testamentary disposition of the decedent,* shall be for the benefit of and go to the kindred of the deceased in the following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased.

(e) If the deceased leaves no widow, husband or child, and if both father and mother are dead, then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

HB 307, AN ACT relating to conservation easements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Conservation easement" means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

(2) "Holder" means:

(a) A governmental body empowered to hold an interest in real property under the laws of this state or the United States; or

(b) A charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

(3) "Third-party right of enforcement" means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, charitable corporation, charitable association, or charitable trust, which although eligible to be a holder, is not a holder.

SECTION 2. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this Act, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements.

(2) No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement before its acceptance by the holder and a recordation of the acceptance.

(3) Except as provided in subsection (2) of Section 3 of this Act, a conservation easement is unlimited in duration unless the instrument creating it otherwise provides.

(4) An interest in real property in existence at the time a conservation easement is created is not impaired by it unless the owner of the interest is a party to the conservation easement or consents to it.

SECTION 3. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) An action affecting a conservation easement may be brought by:

(a) An owner of an interest in the real property burdened by the easement;

(b) A holder of the easement;

(c) A person having a third-party right of enforcement; or

(d) A person authorized by other law.

(2) This Act does not affect the power of a court to modify or terminate a conservation easement in accordance with the principles of law and equity.

SECTION 4. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

A conservation easement is valid even though:

(1) It is not appurtenant to an interest in real property;

(2) It can be or has been assigned to another holder;

(3) It is not of a character that has been recognized traditionally at common law;

(4) It imposes a negative burden;

(5) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;

(6) The benefit does not touch or concern real property; or

(7) There is no privity of estate or of contract.

SECTION 5. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) This Act applies to any interest created after its effective date which complies with this Act, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise.

(2) This Act applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States.

(3) This Act does not invalidate any interest, whether designated as a conservation or preservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other law of this state.

SECTION 6. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

This Act shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of the Act among states enacting it.

Motions, Petitions, and Communications (continued)

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 35**, by Representative Arnold:

Amend printed copy of **HB 35**, page 6, line 3, by inserting after the word "*land.*" the following: "*However, if the petitioner in the condemnation proceeding is a utility as defined in KRS 278.010, there shall not be a hearing under this section if the public service commission held a public hearing as part of the review of the petitioner's application for a certificate of convenience and necessity for a new electric transmission line of four hundred (400) kilovolts or more.*"

Floor Amendment No. 2 to **HB 35**, by Representative Arnold:

Amend printed copy of **HB 35**, page 5, line 26, by inserting after the word "*instituted*" the following: "*, except for condemnation proceedings for public service facilities authorized by the public service commission,*"

Floor Amendment No. 1 to **HB 255**, by Representative Kidd:

Amend printed copy of **HB 255**, page 3, line 5, by deleting the words "*or more*"

And on line 6, by deleting the words "*stringent than*"

And on line 6, by deleting the words "*this section*" and inserting in lieu thereof the following: "*KRS 211.900 to 211.905 and 211.994*"

A meeting of the Committee on Rules was announced on adjournment, State Reception Room.

Adjournment

Representative LeMaster moved that the House adjourn until 4 p.m., Monday, January 23, 1984.

On the roll call the vote was yeas 69-Allen, Arnold, Barrows, Bennett, Blandford, Blevins, Brinkley, Brown, Burch, Caldwell, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Freibert, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Mann, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Yates. Nays 3-Ford, Maggard, Perkins.

The motion to adjourn was adopted.

MONDAY, JANUARY 23, 1984

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Ted Sisk, Immanuel Baptist Church, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Sam M. McElroy came forward and produced his Certificate of Election. The oath of office was administered by Chief Justice Robert Stephens.

The roll was called. All members present except Representative Heleringer.

Representative Overstreet moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Overstreet moved that the reading of the Journal of January 18, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 62** and **SB 64**.

Introduction of Bills and Resolutions

HB 399, by Representative Burch: AN ACT relating to the sale of horses.

HB 400, by Representative Pearman: AN ACT relating to bridges.

HB 401, by Representative Arnold: AN ACT relating to jails.

HB 402, by Representative Little: AN ACT relating to school employes.

HB 403, by Representative Little: AN ACT relating to sick leave for school employes or teachers.

HB 404, by Representatives Long, Moberly, B. Smith, Blandford, Maggard, Craddock, and Burnette: AN ACT relating to the University of Kentucky Board of Trustees.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 381, HB 385.**

Banking and Insurance: **HB 394, HB 373.**

Business Organizations and Professions: **HB 389, HB 390, HB 392, HB 393, HB 378.**

Cities: **HB 387, HB 374.**

Counties and Special Districts: **HB 379, HB 383.**

Education: **HB 395, SB 26, SB 27.**

Judiciary-Civil: **HB 376, HB 388.**

Judiciary-Criminal: **HB 384.**

Labor and Industry: **HB 396, HB 386, HB 363.**

Natural Resources and Environment: **HB 398, HB 397.**

State Government: **HB 375, HB 377, HB 380, HB 382, SB 37, SB 56, SJR 1, HR 24, HR 32.**

Transportation: **HB 391.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HJR 8.**

Education: **HB 153.**

Labor and Industry: **HB 152, HB 128, HB 287.**

Appropriations and Revenue: **HB 367.**

Report of Committees

The Committee on Rules reported **HB 17, HB 44, HB 66, HB 167, HB 175, HB 255, HB 257,** and **HB 35** have been posted for passage in Orders of the Day, January 24, 1984.

The Committee on Rules reported **HB 46** has been recommitted to the Committee on State Government.

Calendar

HB 75, HB 113, HB 241, HB 195, HB 200, HB 229, HB 126, HB 350, HB 39, HB 114, and **HB 307** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 3 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 3** be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Bruce, Johnson, Morris, Thomason.

HB 3 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 3** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 34 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 34** be passed.

On the roll call the vote was 85-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones. T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 34 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 34** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 158 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 158** be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 5-Burnette, Clapp, Ellington, Gray, McNutt.

HB 158 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 158** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 166 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **HB 166** be passed.

On the roll call the vote was yeas 38-Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, P. Clark, Craddock, Dunn, Farrow, Foster, Gray, Hancock, T. Jones, Kenton, Kidd, Little, Long, Mann, Meyer, Moberly, Morris, Noe, Perkins, Petty, Priddy, Rapier, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Williams, Yates. Nays 41-Allen, Brown, Caldwell, Clarke, Cline, Cowan, Curd, Dawahare, Ellington, Endicott, Ford, Freibert, Fryman, Guenthner, Head, Holbrook, Holloway, R. Jones, Layman, Lefevers, Lile, Lundergan, Maggard, McBee, McElroy, McNutt, Moore, Noland, Overstreet, Patrick, Pearman, Richards, B. Richardson, Riner, Robinson, Stone, Todd, Turner, Van Horn, White, Worthington.

HB 166 was defeated.

HB 187 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 187** be passed.

Representative Guenthner moved that **HB 187** be laid on the table.

On the roll call the vote was yeas 25-Allen, Burnette, Caldwell, Clapp, Cline, Cowan, Dawahare, Ford, Fryman, Guenthner, Harper, Holbrook, R. Jones, Layman, Lile, Long, Maggard, Noland, Overstreet, Pearman, Perkins, Robinson, Todd, Turner, White. Nays 67-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, P.Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gray, Hancock, Handy, Head, Hines, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, List, Little, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Patrick, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Worthington, Yates.

The motion that **HB 187** be laid on the table was rejected.

Representative Burch moved that **HB 187** be laid on the Clerk's desk. Agreed.

HB 293 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that **HB 293** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Ellington.

HB 293 was passed and the title agreed to.

Representative R. Jones moved that the vote by which **HB 293** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 225, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Committee Amendment No. 1 to **HB 225**. Agreed.

Representative Williams moved that **HB 225**, as amended be passed.

Representative Guenthner moved that **HB 225**, as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 48-Arnold, Brinkley, Brown, Caldwell, Clarke, Cline, Cowan, Craddock, Cyrus, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Head, Holbrook, Holloway, R. Jones, T. Jones, Layman, Lefevers, Little, Long, Lundergan, Maggard, McBee, McNutt, Moore, Morris, Noland, O'Brien, Overstreet, Patrick, Pearman, Rapier, Robinson, B. Smith, Stone, Todd, Turner, White, Worthington. Nays 39-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Burch, Clapp, P. Clark, Crupper, Curd, Donnermeyer, Dunn, Gray, Handy, Hines, Johnson, LeMaster, Lile, List, Mann, Meyer, Moberly, Nett, Perkins, Petty, Priddy, Rattliff, Richards, P. Richardson, Riner, Seum, F. Smith, Stumbo, Thomas, Thomason, Van Horn, Williams, Yates.

HB 225, as amended, was laid on the Clerk's desk.

Motions, Petitions, and Communications

Representative Barrows moved that the vote by which **HB 166** was defeated be reconsidered.

On the roll call the vote was yeas 37-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley,Bronger, Bruce, Burch, P. Clark, Crupper, Cyrus, Donnermeyer, Dunn, Gray, Hines, T. Jones, Kenton, LeMaster, List, Lundergan, Maggard, Mann, Moberly, Noe, Perkins, Petty, Rapier, B. Richardson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams. Nays 32-Allen, Craddock, Curd, Dawahare, Deskins, Ellington, Endicott, Freibert, Fryman, Guenthner, Head, Holbrook, Holloway, Layman, Lefevers, Lile, Long, McBee, McElroy, McNutt, Moore, Nett, Noland, Overstreet, Patrick, Pearman, Richards, Robinson, Todd, Turner, White, Worthington.

The motion that the vote by which **HB 166** was defeated be reconsidered was adopted.

Representative Barrows moved that **HB 166** be placed in Orders of the Day for January 24, 1984. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HR 33, by Representatives Stone, Brinkley, and Cyrus: A RESOLUTION commending the Star-Graham Complex First Aid Team.

HJR 34, by Representative Morris: A JOINT RESOLUTION requesting the Legislative Research Commission to make a weighted caseload study of the Court of Justice.

HR 35, by Representatives Robinson and Moore: A RESOLUTION commending the Leeco, Inc. Mine Rescue Team.

HB 405, by Representatives Barrows and T. Jones: AN ACT relating to libraries and archives and making an appropriation therefor.

HB 406, by Representatives Clarke and LeMaster: AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 407, by Representative Burch: AN ACT relating to the equine industry.

HB 408, by Representative Burch: AN ACT relating to the equine industry.

HB 409, by Representative Burch: AN ACT relating to the equine industry.

HB 410, by Representative Pearman: AN ACT relating to state government.

HB 411, by Representatives Priddy, Bennett, Heleringer, Handy, Bronger, Dunn, Riner, O'Brien, P. Clark, Lile, Yates, Burch, and Holloway: AN ACT relating to annexation.

HB 412, by Representatives Priddy, Bennett, Yates, Handy, P. Clark, O'Brien, Lile, Dunn, Bronger, Kidd, Hines, Riner, and Burch: AN ACT relating to local government in counties containing a city of the first class.

HB 413, by Representative Pearman: AN ACT relating to estimated utility bills.

HB 414, by Representative Burch: AN ACT relating to the equine industry.

HB 415, by Representative Donnermeyer: AN ACT relating to theft and related offenses.

HB 416, by Representative Burch: AN ACT relating to the equine industry.

HB 417, by Representatives Donnermeyer and Heleringer: AN ACT relating to abortion.

HB 418, by Representatives Donnermeyer and Heleringer: AN ACT relating to fetal experimentation.

HB 419, by Representative Donnermeyer: AN ACT relating to theft by deception.

HB 420, by Representatives Meyer, Hancock, and Yates: AN ACT relating to jurisdiction in plumbing law cases.

HB 421, by Representative R. Jones: AN ACT relating to adoptions.

Reports of Committees

The Committee on Judiciary-Criminal reported **HB 69,** with Committee Amendment attached thereto, and **HB 194,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 69, AN ACT relating to motor vehicle operator licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The justice cabinet shall develop and implement a driver education training program for applicants for a learner's permit for a motor vehicle or motorcycle operator's license including at least the following subjects:

(a) Alcohol and controlled substances and their effect on a person's operation of a motor vehicle;

(b) Penalties for operation of a motor vehicle while under the influence of alcohol or controlled substances;

(c) Safe practices while operating a motor vehicle; and

(d) Recent changes in the motor vehicle laws.

(2) The program shall be at least four (4) hours in length.

(3) In lieu of developing a new program the justice cabinet may require that applicants for a learner's permit for a motor vehicle or motorcycle operator's license attend the program established by KRS 186.574.

(4) Each applicant for a learner's permit for a motor vehicle or motorcycle operator's license shall successfully complete the driver education program specified above before the learner's permit is issued.

The Committee Amendment No. 1 to **HB 69** is as follows:

Amend printed copy of **HB 69,** on page 1, line 1, to delete "*justice*" and to insert in lieu thereof "*transportation*"

and on page 1, line 18, to delete "*justice*" and to insert in lieu thereof "*transportation*"

HB 194, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Whenever a person who is eighteen (18) years of age or younger but not less than fourteen (14) years of age is convicted of or pleads guilty to a violation of any offense in this chapter or is adjudicated

delinquent as a result of any act which would be an offense under this chapter, the court shall, in addition to any other offense:

(a) If the person has a motor vehicle or motorcycle operator's license, revoke the license until the person is eighteen (18) years of age or for one (1) year, whichever is longer if it is the person's first offense;

(b) If the person has a motor vehicle or motorcycle operator's license, revoke the license until the person is twenty-one (21) years of age or for three (3) years, whichever is longer, if it is a second or subsequent offense; and

(c) If the person has no motor vehicle or motorcycle operator's license, issue notification to the justice cabinet that in the event of a first offense that no such license shall be issued to such person for the period described in paragraph (a) of this subsection and in the event of a second or subsequent offense that no license shall be issued to such person for the period described in paragraph (b) of this subsection.

(2) Revocations of operator's licenses and denials of licenses pursuant to this section shall be in addition to any other suspension, revocation, or denial of motor vehicle or motorcycle operator's licenses authorized by law.

(3) Licenses revoked pursuant to this section shall be retained by the court for the period of revocation and shall be returned to the person after the expiration of the revocation period upon payment of the reinstatement fees and satisfaction of other requirements for the reinstatement of revoked licenses as may be required by the justice cabinet.

(4) Each court revoking a motor vehicle operator's license or motorcycle operator's license or denying the issuance of such license pursuant to this section shall notify the justice cabinet of its actions and the terms of the revocation or denial.

(5) No court shall suspend, probate, or otherwise fail to impose the sanctions required by this section.

The Committee Amendment No. 1 to **HB 194** is as follows:

Amend printed copy of **HB 194,** on page 1, line 20, to delete "*jus-*" and to insert in lieu thereof "*transportation*"

and on page 1, line 21, to delete "*tice*"

and on page 2, line 17, to delete "*justice*" and to insert in lieu thereof "*transportation*"

and on page 2, line 21, to delete "*justice*" and to insert in lieu thereof "*transportation*"

The Committee Amendment No. 2 to **HB 194** is as follows:

Amend printed copy of **HB 194,** on page 1, line 9, to delete "*offense*" and to insert in lieu thereof "*penalty*"

and on page 1, line 16, to delete "*-one*"

and on page 1, line 16, to delete "*(21)*" and to insert in lieu thereof "*(20)*"

and on page 1, line 16, to delete "*three*" and to insert in lieu thereof "*two*"

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HJR 1, HJR 2, HB 112, HB 263, HB 264, HB 265, HB 266, HB 269, HB 300, HB 365, HJR 17, HJR 25.**

State Government: **HB 370.**

Judiciary-Criminal: **HB 344, HB 345.**

Cities: **HB 119, HB 387.**

Motions, Petitions, and Communications (continued)

Representative Morris moved that he be recorded as voting "yea" on **HB 3**. Agreed.

Representative Barrows moved that **HB 20** be taken from the Clerk's desk and be recommitted. Agreed.

Representative Foster moved that **HB 20** be recommitted to the Committee on Banking and Insurance. Agreed.

Representative Stumbo moved that **HB 338** be withdrawn. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Gray requested that he be recorded as voting "yea" on **HB 3**.

Representative Gray requested that he be recorded as voting "yea" on **HB 34**.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Burnette, **HB 381**; Representative Donnermeyer, **HB 75**, **HB 293**, **HB 363**; Representative Ford, **HB 169**; Representative R. Jones, **HB 169**; Representative List, **HB 292**, **HB 293**; Representative Meyer, **HB 114**; Representative Riner, **HJR 7**, **HJR 9**, **HB 334**, **HB 341**, **HB 381**; Representative Seum, **HB 195**; Representative Williams, **HB 132**.

Representative Johnson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Johnson requested that he be recorded as voting "yea" on **HB 3**.

Representative Deskins requested that he be recorded as voting "yea" on **HB 3** and **HB 34**.

Representative Stone moved the adoption of the following **HR 33**:

HR 33, A RESOLUTION commending the Star-Graham Complex First Aid Team.

WHEREAS, the Star-Graham Complex First Aid Team of Peabody Coal Company is the 1983 National First Aid Champion; and

WHEREAS, this honor was achieved in competition with teams from several states; and

WHEREAS, the members of this National First Aid Champion Team have studied and practiced many hours the technique of giving proper first aid; and

WHEREAS, this national champion team has genuine concern for their fellow miners or any person in an emergency threatening human health and this concern should properly be acknowledged;

NOW THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the following members of the Star-Graham Complex First Aid Team of Peabody Coal Company are highly commended upon their accomplishment of being the 1983 National First Aid Champions: Clarence Gillespie, Captain, Jack Littlepage, Delbert Ritchie, Randy Duncan, John Crockett, Jr., Jerry Duvall, Tony Tabor, and Dennis Adams.

Section 2. That when the House of Representatives adjourns on the day of adoption of this resolution it does so in honor of this 1983 National First Aid Champion.

Section 3. That copies of this resolution be sent to the members of the team, the President of Peabody Coal Company, the Commissioner of the Department of Mines and Minerals, and the Director of the Mine Safety and Health Administration.

HR 33 was adopted by voice vote.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 19**, by Representative Mann:

Amend printed copy of **HB 19**, on page 1, line 17, following the word "after" by inserting the words "*a conference with the principal, and*".

Floor Amendment No. 3 to **HB 35**, by Representative Arnold:

Amend printed copy of **HB 35**, on page 6, line 3, by inserting after the word "*land.*" the following: "*However a hearing under this section shall not be held if the petitioner in the condemnation proceeding is a utility as defined in KRS 278.010(3) and obtained a certificate of convenience and necessity as required by KRS 278.020(1).*"

Floor Amendment No. 1 to **HB 167**, by Representative LeMaster:

Amend printed copy of **HB 167**, on page 5, after line 16, by adding the following:

"Section 2. That there be appropriated from the General Expenditure Fund to the Legislative Research Commission the sum of ten thousand eight hundred dollars ($10,800) per calendar day during all regular, special and organizational sessions of the General Assembly. This appropriation shall be available for expenditure during the 1983-84 and 1984-85 fiscal years.

Whereas, the General Assembly is now in session and it is necessary that these funds be available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to additional personnel employed by the commission during the 1984 regular session of the General Assembly from and including January 3, 1984."

Title Amendment to **HB 167**, by Representative LeMaster:

Amend printed copy of **HB 167**, on page 1, by amending the title to read as follows:

"AN ACT relating to public officers and employes, making an appropriation, and declaring an emergency."

Floor Amendment No. 1 to **HB 175**, by Representative Patrick:

Amend printed copy of **HB 175**, on page 2, line 2, by inserting after the word "*children*" the following new language: "*. Each dollar collected for such not for profit self-help groups shall be allocated by the cabinet for human resources for use only in the county of birth of the person in whose name the birth certificate is issued*"

Floor Amendment No. 1 to **HB 274**, by Representative Johnson:

Amend printed copy of **HB 274**, by inserting the following new subsection of Section 1, on page 2, line 16:

"*(1) The legislative body of any city of the third to sixth class may by ordinance elect to be within the jurisdiction of a joint sewer agency established pursuant to this Act.*"

Announcements

The following meetings were announced:

Committee on Rules: On adjournment, State Reception Room.

Labor and Industry: Tuesday, 9:00 a.m., Room 104.

Education: Subcommittee, Budget, 9:00 a.m., Tuesday, Room 109.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, January 24, 1984.

On the roll call the vote was yeas 67-Allen, Barrows, Bendl, Blevins, Brinkley, Brown, Burch, Caldwell, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Guenthner, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Little, Long, Lundergan, Mann, McBee, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 7-Deskins, Handy, Maggard, Moore, Overstreet, Perkins, Richards.

The motion to adjourn was adopted.

TUESDAY, JANUARY 24, 1984

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Father Larry Hehmen, Holy Spirit Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of January 23, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 422, by Representative Cyrus: AN ACT relating to state purchasing.

HB 423, by Representative Riner: AN ACT relating to senior citizens.

HB 424, by Representatives Moore, Bronger, and Stumbo: AN ACT relating to negotiable instruments.

HB 425, by Representative Arnold: AN ACT relating to the local correctional facilities construction authority and declaring an emergency.

HB 426, by Representative Heleringer, Yates, Moore, Riner, Guenthner, Clark, and Donnermeyer: AN ACT relating to disabled children.

HB 427, by Representative Hines: AN ACT relating to the Kentucky Heritage Council.

HB 428, by Representative Gray: AN ACT relating to annexation.

HB 429, by Representative Gray: AN ACT relating to transient taxes.

HB 430, by Representatives Gray and Deskins: AN ACT relating to boats.

HB 431, by Representative Priddy: AN ACT relating to law enforcement foundation program and professional fire fighters foundation program funds.

HB 432, by Representative Bennett and Van Horn: AN ACT relating to obligations of employers.

HB 433, by Representatives Guenthner and Heleringer: AN ACT relating to cruelty of animals.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 405, HB 406, SB 64.**

Business Organizations and Professions: **HB 399, HB 407, HB 408, HB 409, HB 414, HB 416.**

Cities: **HB 411.**

Counties and Special Districts: **HB 401, HB 412, HB 400.**

Education: **HB 402, HB 403, HB 404.**

Energy: **HB 413.**

Health and Welfare: **HB 417, HB 418, HB 421.**

Judiciary-Civil: **HB 420.**

Judiciary-Criminal: **HB 415, HB 419.**

State Government: **HB 410, HJR 34, SB 62.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 352, HB 317.**

Report of Committees

The Committee on Rules reported **HB 39, HB 113, HB 114, HB 126, HB 307, HB 208, HB 259,** and **HB 306** have been posted for passage in Orders of the Day, January 25, 1984.

The Committee on Rules reported the following Bills have been recommitted:

HB 75 to the Committee on Appropriations and Revenue.

HB 205 to the Committee on Energy.

The Committee on Health and Welfare reported **HB 243** and **HB 301** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 243, AN ACT relating to social workers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family or others, including actions which deprive self, family or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(3) "Cabinet" means the Kentucky cabinet for human resources;

(4) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing in-patient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(5) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, other than designated forensic psychiatric facilities, approved by the Kentucky cabinet for human resources as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(6) "Judge" means any judge or justice of the court of justice or a trial commissioner of the district court acting under authority of **SCR 5.030;**

(7) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve his level of functioning, consistent with accepted professional

practice in the least confining setting available;

(8) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological or social factors;

(9) "Patient" means a person under observation, care or treatment in a hospital pursuant to the provisions of this chapter;

(10) "Petitioner" means a person who institutes a proceeding under this chapter;

(11) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist licensed at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under this chapter;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons; or

(e) A certified social worker licensed [~~for the independent practice of clinical social work~~] under the provisions of KRS Chapter 335;

(12) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(13) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(14) "Secretary" means the secretary of the cabinet for human resources.

Section 2. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a *certified* social worker *licensed under the provisions of KRS Chapter 335* [~~with a graduate degree in social work~~]. The social worker shall, whenever possible, be chosen from among employes of the Department for Human Resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS *202A.011(11)* [~~202A.010(10)~~]. If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(3).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) A determination whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of physical harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employe of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6), the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least twenty (20) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) The examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employe of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employe of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence are admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for such evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

HB 301, AN ACT relating to guardianship of disabled persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a social worker with a graduate degree in social work. The social worker shall, whenever possible, be chosen from among employes of the *cabinet* [~~Department~~] for human resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.010(10). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(3).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) A determination whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of physical harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employe of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6), the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least twenty (20) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) *If the person evaluated is a poor person as defined in KRS 453.190,* the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employe of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employe of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence are admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for such evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

The Committee on Transportation reported **HB 286** and **HB 356** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 286, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.450 is amended to read as follows:

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a permanent operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than *six (6) months* [~~sixty (60) days~~]. An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25.00). The permit holder shall have this permit in his possession and be accompanied by a licensed operator occupying the seat beside the operator at all times while operating a motor vehicle upon the highway.

(2) Any person who, except for his lack of instruction in operating a motorcycle or moped, would otherwise be qualified to obtain a permanent motorcycle operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than *six (6) months* [~~sixty (60) days~~]. The permit holder shall have

this permit in his possession at all times while operating a motorcycle upon the highway.

(3) The clerk, after determining that the applicant has fully complied with the laws governing the issuance of instruction permits shall, upon the request of the applicant, issue a permanent moped license. Any valid motor vehicle operator license may also be used in the operation of a moped.

Section 2. KRS 186.531 is amended to read as follows:

(1) The cost of operator's licenses, motorcycle operator's licenses and permits shall be as follows:

(a) The fee for any two (2) year original or renewal license, including motorcycle operator's license, shall be four dollars ($4.00), except that the fee for a combination motor vehicle-motorcycle operator's license shall be seven dollars ($7.00). The fee for any four (4) year original or renewal license, including motorcycle operator's license, shall be eight dollars ($8.00), except that the fee for a four (4) year combination motor vehicle-motorcycle operator's license shall be fourteen dollars ($14.00);

(b) The fee for any instruction permit shall be *one dollar ($1.00)* [~~fifty (50) cents~~] plus *one dollar ($1.00)* [~~fifty (50) cents~~] for preparing and acknowledging such application;

(c) The fee for a duplicate license shall be two dollars ($2.00); and

(d) The fee for a non-driver's identification card shall be four dollars ($4.00). The fee for a duplicate non-driver identification card shall be two dollars ($2.00).

(2) The circuit clerk shall deposit in the state treasury to the credit of the general fund except as provided in subsection (f) fees pertaining to applications and license fees in the following manner:

(a) One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee for a combination motor vehicle-motorcycle operator's license shall be three dollars ($3.00);

(b) *One dollar ($1.00)* [~~Fifty (50) cents~~] for issuance of any instruction permit;

(c) *One dollar ($1.00)* [~~Fifty (50) cents~~] for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each non-driver's identification card; and

(f) For each two (2) year original or renewal license fifty (50) cents or for each four (4) year original or renewal license one dollar ($1.00) shall be credited to a special account within the state road fund and shall be used by the transportation cabinet exclusively for the purpose of issuing a photo license.

(3) The remainder of all fees, and other moneys collected by the circuit court clerk shall be forwarded to the state.

(4) The photo licenses shall be in use and the procedures prescribed by KRS 186.412 and 186.413 shall be fully implemented by January 1, 1975.

HB 356, AN ACT relating to motor vehicle equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.950 is amended to read as follows:

(1) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle, or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal.

(2) No motor vehicle, except those designated under KRS 189.910 to 189.950 as emergency vehicles, shall be equipped with, nor shall any person use upon a vehicle any red or blue flashing, revolving, or oscillating light or place a red light on the front thereof. This subsection shall not apply to the use of red flashing lights on school buses or to stop lights or turn signals at the rear of any motor vehicle.

(3) No motor vehicle, except those designated under KRS 189.910 to 189.950 as public safety vehicles, shall be equipped with, nor shall any person use upon any vehicle any yellow flashing, revolving, or oscillating light. This subsection shall not apply to the use of yellow lights for turn signals; or to emergency flasher lights for use when warning the operators of other vehicles of the presence of a vehicular traffic requiring the exercise of unusual care in approaching, overtaking, or passing; or to vehicles operated by mail carriers while on duty; funeral escort vehicles and church buses.

(4) Any person who is a regular or voluntary member of any fire department furnishing fire protection for a political subdivision of the state or any person who is a regular or voluntary member of a rescue squad may equip his vehicle with red flashing, rotating, or oscillating lights and a siren, bell, or exhaust whistle if he has first been given permission, in writing, to do so by the chief of the fire department or rescue squad. He may use such lights and equipment only while proceeding to the scene of a fire or other emergency in the performance of his official duties as a member of a fire department or rescue squad.

(5) Any peace officer not otherwise covered by KRS 189.920(2) may, upon approval of the fiscal

court in the county of jurisdiction, equip vehicles used by said officer as emergency vehicles with one (1) or more flashing, rotating or oscillating blue lights, visible under normal atmospheric condition from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

The Committee on Counties and Special Districts reported **HB 11, HB 25,** and **HB 311** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 11, AN ACT relating to property valuation administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.645 is amended to read as follows:

(1) The property valuation administrator of each county shall be paid from the state treasury each month as provided in KRS 132.590.

(2) Deputies, other authorized personnel, and other authorized expenditures of the property valuation administrator's office shall be paid from the state treasury monthly as approved by the department of revenue as provided in KRS 132.590 (2).

(3) As an elected county official who performs vital services for the state, the property valuation administrator of each county shall receive an annual expense allowance of three thousand six hundred dollars ($3,600) to be paid from the state treasury in monthly installments of three hundred dollars ($300). This expense allowance shall be in addition to other lawful expense payments, shall be in payment of operating expenses of the office, and shall not be considered as part of the property valuation administrator's compensation. Property valuation administrators shall not be required to keep records verifying expenditures from this expense allowance.

HB 25, AN ACT relating to county roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court of any county may treat county roads to control dust, and may bill producers of natural resources, as defined in KRS 177.971, whose natural resources are hauled on those roads, for their proportionate share of the cost of treatment. If a producer does not pay his proportionate share within thirty (30) days of the mailing of the bill, the fiscal court may prohibit the movement of the producer's natural resources on county roads until the charges are paid.

(2) The proportionate share of costs of any producer shall be determined as the percentage which the tonnage of natural resources hauled by or for the producer over county roads bears to the total tonnage of natural resources hauled on the county roads. The fiscal court shall consult with producers to devise an equitable method for determining proportionate cost shares before instituting charges, but the fiscal court shall be the final authority in determining proportionate costs.

(3) Treatment of county roads for dust pursuant to this section shall not include paving, or laying of rock.

HB 311, AN ACT relating to local ordinances and regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No city, county or urban-county government may occupy any part of the field of regulation of the transfer, ownership, possession, carrying or transportation of firearms, ammunition, or components of firearms or combination thereof.

Calendar

HB 194 and **HB 69** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 19, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Amendment No. 1 to **HB 19.** Agreed.

Representative Mann moved the adoption of the Floor Amendment No. 1 to **HB 19.** Agreed.

Representative Mann moved that **HB 19,** as amended, be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Brown, Head, Little, Pearman.

HB 19, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 19,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 167, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Floor Amendment No. 1 to **HB 167.** Agreed.

Representative Arnold moved that **HB 167,** as amended, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Brown.

HB 167, as amended, was passed.

Representative LeMaster moved the adoption of the Floor Title Amendment to **HB 167.** Agreed.

Representative LeMaster moved that the vote by which **HB 167,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 274, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Floor Amendment No. 1 to **HB 174.** Agreed.

Representative Johnson moved that **HB 274,** as amended be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 274, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 274,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 17 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 17** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 17 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 17** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 44 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 44** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 44 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 44** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 66 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 66** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 66 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 175, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved that **HB 175** be passed.

Representative Patrick moved that Floor Amendment No. 1 to **HB 175** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 78-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, White, Williams, Worthington, Yates. Nays 16-Allen, Clapp, Clarke, Ellington, Ford, Freibert, Fryman, Harper, Layman, Moore, Noland, Overstreet, Patrick, Robinson, Todd, Van Horn.

HB 175 was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 175** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 9** and **SCR 8**.

Orders of the Day (Continued)

HB 255, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Floor Amendment No. 1 to **HB 255**. Agreed.

Representative Kidd moved that **HB 255**, as amended, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 2-Fryman, Williams.

HB 255, as amended, was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 255**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 257 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved that **HB 257** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 257 was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 257** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 35, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Floor Amendment No. 3 to **HB 35**. Agreed.

Representative Arnold moved that **HB 35**, as amended, be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Bruce, Richards.

HB 35, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 35**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Turner moved the adoption of the following Legislative Citation No. 8:

The House of Representatives of the Commonwealth of Kentucky congratulates Melissa Guenthner, daughter of Representative and Mrs. Louie R. Guenthner, Jr., for receiving the coveted and distinguished Girl Scout Avon Leadership Award on October 19, 1983, presented at the Kentuckiana Council Girl Scout Avon Leadership Conference, held in Washington, D.C., along with the scholarship funded by Avon Products, Inc. Your achievements and accomplishments were most evident in your attainment of Girl Scout recognitions, in addition to your meaningful involvement in pertinent council wide events, in service, and in interest projects relative to women in business, government and leadership. Your communication skills and willingness to share your experiences at school, with community and with religious groups, have been an attribute and most noteworthy. Your leadership development for TODAY AND TOMORROW is exemplary in your dedication and outstanding contributions to benefit all mankind, and we this prestigious body salute you. Your continued efforts with Girl Scouts will help make your community, the Commonwealth of Kentucky and the Nation a better place to live. We extend best wishes for continued success in striving to attain the Girl Scouts highest award, the Gold Award. (Sponsored by Representative Turner)

Agreed.

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Robinson moved the adoption of the following **HR 35**:

HR 35, A RESOLUTION commending the Leeco, Inc. Mine Rescue Team.

WHEREAS, the Leeco, Inc. Mine Rescue Team of Leslie County is the 1983 National Mine Rescue Champion in the one-hour contest; and

WHEREAS, this honor was achieved in competition with teams from several states; and

WHEREAS, the members of this National Mine Rescue Champion Team have studied and practiced for many hours the technique of proper mine rescue; and

WHEREAS, this national champion one-hour contest mine rescue team has genuine concern for their fellow miners, who may need their help, and this concern should properly be acknowledged;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the following members of the Leeco, Inc. Mine Rescue Team of Leslie County are highly commended upon their accomplishment of being the 1983 National Mine Rescue Champions, One-Hour Contest: Patrick Graham, Captain, Pearl Farler III, Kevin Bruner, Donnie Spurlock, Steve Adams, Surapong Praestersang, Ray Adams, and David Altizer.

Section 2. That when the House of Representatives adjourns on the day of adoption of this resolution it does so in honor of this 1983 National Mine Rescue Champion, One-Hour Contest.

Section 3. That copies of this resolution be sent to the members of the team; the President of Leeco, Inc.; the Commissioner of the Department of Mines and Minerals; and the Director of the Mine Safety and Health Administration.

HR 35 was adopted by voice vote.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 434, by Representative Yates: AN ACT relating to insurance.

HB 435, by Representative Burch: AN ACT relating to horse racing.

HB 436, by Representative Burch: AN ACT relating to greyhound racing.

HB 437, by Representatives Morris and Bruce: AN ACT relating to milk and cream.

HB 438, by Representative Donnermeyer, AN ACT relating to the financing of local planning and zoning activities.

HB 439, by Representatives Morris, Bruce, Long, Holbrook, Lundergan, Meyer, Craddock, Endicott, Noland, McElroy, Brinkley, McNutt, Cyrus, Guenthner, Donnermeyer, Richards, and Gray: AN ACT relating to ad valorem taxation of motor vehicles.

HB 440, by Representatives Mann, Donnermeyer, Petty, McBee, Meyer, Harper, and Caldwell: AN ACT relating to alcoholic beverage control.

HR 36, by Representatives Deskins and Little: A RESOLUTION commending the Eastern/Kentland Mine Rescue Team.

HR 37, by Representatives Bruce and Morris: A RESOLUTION requesting an investigation of the amount paid former Governor Bert T. Combs as counsel for Governor John Y. Brown, Jr., in the case of Legislative Research Commission vs. John Y. Brown, Jr.

Report of Committees

The Committee on Committees reported the following committee changes:

1. Representative David Thomason is to be moved from Counties and Special Districts Committee and placed on the Cities Committee.

2. Representative Sam McElroy is to be appointed to the following committees: Counties and Special Districts; Natural Resources and Environment; and Judiciary-Criminal.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 173.**

Education: **HB 79, HB 318, HB 336.**

Banking and Insurance: **HB 394.**

Labor and Industry: **HB 258.**

Motions, Petitions, and Communications

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 30,** by Representative Cyrus:

Amend printed copy of **HB 30** on page 1, line 4, after the word "constructed" by inserting the following "*, loaded or operated*".

Floor Amendment No. 1 to **HB 306,** by Representative Meyer:

Amend printed copy of **HB 306** on page 1, line 3, by deleting the word "*or*" and inserting in lieu thereof a comma ",";

and on line 3, by adding after the word "*employe*" the words "*or agent*";

and on line 9, by inserting the following language after "cabinet"

"*nor participate in selection, or in the award or administration of a contract supported by state or federal* *funds if a conflict of interest, real or apparent, would be involved.*

(2) Such a conflict of interest would arise when:

(a) The employe, officer or agent;

(b) Any member of his immediate family;

(c) His or her partner; or

(d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award."

and on line 9, by inserting an opening bracket after the word "cabinet" and before the first comma "," and by striking through all the words on line 9 following the word "cabinet";

and on line 10, by striking through all the words up to and including "institution" and inserting a closing bracket after the word "institution";

and on line 10, by deleting ", *facility or*";

and on lines 11, 12, 13, 14 and 15, by deleting them in their entirety.

Floor Amendment No. 1 to **HB 350**, by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 350** on page 13, between lines 19 and 20, by inserting:

"Section 7. KRS 6.031 is amended to read as follows:
The Commonwealth of Kentucky is divided into representative districts as follows:
(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.
(2) Second District: Graves County.
(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.
(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.
(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.
(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.
(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.
(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.
(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.
(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.
(12) Twelfth District: Webster County; that part of Crittenden County contained in election

precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39,

A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, [~~A117,~~] A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, *A117* [~~A120~~], A130, A132, A134, A137 *and*[~~,~~] A141 [~~and A152~~] of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the Lexington-Blue Grass Army Depot and in the election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, *A120*, A121, A122, A131, A140, A142, A143, A144, A145, A148, [~~and~~] A150 *and A152* of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, that part of Sandfordtown not contained in the Sixty-third District, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the city of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: that

part of Bromley precinct not contained in Ludlow city and in Bromley city, Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, and Burtonsville and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, Aspendale, Bluegrass, Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, Ohio, Rookwood, Victory, Walnut Street, Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, Douglas, Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, Imperial, Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles Pike, Viley Heights, Washington, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and Arlington.

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport, Blueberry Hills, Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell, Malabu, Montavesta, Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, Tudor, Bayswater, Kirklevington, Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview, Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, River Park, Blairmore, Edgewater, Ascot, Park Hills, Cove Lake, Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the

Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner , Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood , Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte."

on page 13, one 20, change section number from "7" to "8."

on page 13, line 24, after "election," insert the following: "and whereas districts in which candidates will be filing are changed by this Act,"

Representative Cyrus moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Brown, **HB 258**; Representative Donnermeyer, **HB 19**, **HB 255**; Representative Gray; **HB 350**; Representative Lile, **HJR 6**, **HB 195**, **HB 228**, **HB 255**, **HB 307**, **HB 352**, **HB 315**; Representative Riner, **HB 433**.

The following meetings were announced:

Committee on Rules: On adjournment, State Reception Room.

Appropriations and Revenue: Hearing on unmined minerals, February 6, 12 noon, Room 109.

Agriculture and Small Business: Cancelled for Wednesday.

Cities: Wednesday, 8:00 a.m.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, January 25, 1984.

On the roll call the vote was yeas 64-Arnold, Barrows, Bendl, Bennett, Blevins, Bronger, Bruce, Burch, Clapp, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gray, Guenthner, Harper, Head, Holbrook, Holloway, Johnson, Kenton, Layman, Lefevers, Lile, Little, Long, Lundergan, McBee, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Todd, Turner, Van Horn, White, Yates. Nays 3-Handy, LeMaster, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 25, 1984

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Brother Joe Adams, Nelson County Baptist Church, Bardstown, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Don Gedling came forward and produced his Certificate of Election. The oath of office was administered by Circuit Judge Kenneth H. Goff, Leitchfield, Kentucky.

The roll was called. All members present except Representative Thomason.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 24, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 441, by Representatives Freibert, Blevins, Moberly, T. Jones, Bendl, Kidd, White, Kenton, Priddy, Craddock, and McNutt: AN ACT relating to pensions.

HB 442, by Representatives Bennett, Hines, Bendl, O'Brien, Nett, Lile, Cowan, Priddy, and Guenthner: AN ACT proposing an amendment to Section 144 of the Constitution of Kentucky relating to fiscal courts.

HB 443, by Representative Bennett: AN ACT removing obsolete sections in KRS Chapter 336.

HB 444, by Representatives Bennett and Yates: AN ACT relating to the construction of public works.

HB 445, by Representative Burnette: AN ACT relating to out-of-state contractors.

HB 446, by Representative Barrows: AN ACT relating to bonding of coroners.

HB 447, by Representative Barrows: AN ACT relating to bonding of county officials.

HB 448, by Representative Barrows: AN ACT relating to overtime exemptions.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 437.**

Banking and Insurance: **HB 424.**

Business Organizations and Professions: **HB 440, HB 436, HB 435.**

Cities: **HB 428, HB 429, HB 431.**

Counties and Special Districts: **HB 425, HB 438.**

Energy: **HB 423.**

Health and Welfare: **HB 426.**

Judiciary-Criminal: **HB 433.**

Labor and Industry: **HB 432, HB 434.**

State Government: **HB 427, HB 422, SCR 8, HR 37.**

Transportation: **HB 430, SB 9, HB 439.**

Report of Committees

The Committee on Rules reported **HB 194, HB 200,** and **HB 176** have been posted for passage in Orders of the Day, January 26, 1984.

The Committee on Cities reported **HB 314,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 314, AN ACT relating to metropolitan sewer districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 76.030 is amended to read as follows:

(1) The business, activities, and affairs of such district shall be managed, controlled and conducted by a board composed of seven (7) members, four (4) of whom shall be appointed by the mayor of such city subject to the approval of the city legislative body, and three (3) of whom shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, and which seven (7) members thus appointed shall constitute the board of such district. In counties containing a city of the first class, of the three (3) members appointed by the county judge/executive there shall be representatives of each city of the fourth class which uses metropolitan sewer district treatment facilities for treatment of all of the sewage generated within the city. Such appointment shall be subject to approval by the fiscal court. Not more than four (4) members of the board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than one (1) member resides in any one (1) state senatorial district.

(2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually continuously resided for at least three (3) years next prior to appointment. No officer or employe of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.

(3) The term of each of such members shall be four (4) years, ending on July first. A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.

(4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

(5) The members of the board shall be paid *seventy-five dollars ($75.00)* [~~ten dollars ($10.00)~~] for each meeting of the board attended by such member, *and fifty dollars ($50.00) for attendance at any meeting of a committee which has been authorized or duly appointed by the board.* But *in no instance shall any* member of said board [~~shall~~] be paid more than *three thousand dollars ($3,000)* [~~two hundred and forty dollars ($240)~~] during any fiscal year of the board, nor for more than twenty-four (24) meetings *and*

twenty-eight (28) committee meetings held during any fiscal year of said board.

The Committee Amendment No. 1 to **HB 314** is as follows:

Amend printed copy of **HB 314,** page 3, line 16, by inserting the following phrase between the words "paid" and "more": "*for more than one meeting per day, nor*"

And on page 3, line 19, by inserting between the figure "(24)" and the word "meeting," the word: "*board*"

The Committee on State Government reported **HB 99,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 99, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.070 is amended to read as follows:

As used in KRS 45A.070 to 45A.165, unless the context in which they are used clearly requires a different meaning:

(1) "Cost-reimbursement contract" shall mean a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles (as provided in KRS 45A.215), and a fee, if any.

(2) "Established catalogue price" shall mean the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(3) "Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, and residual value.

(4) "Invitation for bids" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.080 of this code.

(5) "Request for proposals" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.085, 45A.090, 45A.095 or 45A.100.

(6) "Responsible bidder or offeror" shall mean a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) "Responsive bidder" shall mean a person who has submitted a bid under KRS 45A.080 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

(8) "Kentucky bidder" shall mean any individual partnership, association, or corporation which maintains at the time of submission of the bid, a bona fide place of business and a representative inventory of the commodities on which the bid is submitted, within the state of Kentucky, and in the case of corporations is duly qualified to do business and is in good standing under the laws of the state of Kentucky.

(9) "Nonresident firm" shall mean a firm which does not meet the definition of a "Kentucky bidder" as provided in subsection (8) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The chief purchasing officer, in the purchase of all supplies, services and construction by competitive sealed bidding, competitive negotiation, and negotiation after competitive sealed bidding when all bids exceed available funds, shall accept the lowest qualified bid from a responsive and responsible Kentucky bidder, provided that the bid does not exceed the lowest bid price or lowest evaluated bid price from a nonresident firm by more than five percent (5%). In calculating the preference to be allowed, the chief purchasing officer shall take the amount of each bid of the Kentucky bidders and deduct five percent (5%) from its total. If after making such deduction, the bid of any Kentucky bidder is lower than the bid of the

nonresident firm, then the award shall be made to the Kentucky bidder. The preference provided shall be applicable only in comparing bids where one (1) or more bids are by a Kentucky bidder and the other bid is by a nonresident firm, and shall have no application with respect to competing bids if all bidders are Kentucky bidders. In the case of tie bids between Kentucky bidders and nonresident firms, the award shall be made to the Kentucky bidder.

(2) If any provision or condition of this Act conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grant-in-aid programs or other federal aid programs, such provision or condition shall not apply on such federal supported contracts for the purchase of commodities to the extent that the conflict exists, but all provisions or conditions of this Act with which there is no conflict shall apply to contracts for the purchase of commodities to be paid in whole or part from federal funds. This section shall not apply to purchases which are subject to Kentucky Constitution, Section 247.

(3) Nothing in this section is intended to override KRS 45A.470 relating to purchase preferences given to prison industries and handicapped industries.

Section 3. KRS 45A.080 is amended to read as follows:

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(a) Specifications can be prepared that permit award on the basis of either the lowest bid price or the lowest evaluated bid price; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state whether award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth therein for the opening of bids. Such notice shall include publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the finance and administration cabinet for all price contracts and purchase contracts estimated to exceed ten thousand dollars ($10,000) not less than seven (7) days before the date set for the opening of the bids.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection.

(5) The contract shall be awarded *in compliance with Section 2 of this Act* [~~with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or lowest evaluated bid price~~].

(6) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the secretary.

Section 4. KRS 45A.085 is amended to read as follows:

(1) When, under regulations issued by the secretary, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts may be competitively negotiated when it is determined in writing by the purchasing officer that the bid prices received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which:

(a) Each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate; and

(b) The negotiated price is lower than the lowest rejected bid by any competitive bidder; and

(c) The negotiated price is the lowest negotiated price offered by any competitive offeror.

(4) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(5) Award shall be made *in compliance with Section 2 of this Act* [~~to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals~~].

(6) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 5. KRS 45A.090 is amended to read as follows:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the lowest responsive and responsible bidder; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080, then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one bidder, competitive negotiations pursuant to KRS 45A.085 shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the lowest responsive and responsible bidders to the competitive sealed bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded *in compliance with Section 2 of this Act* [~~upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror~~].

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Section 6. KRS 45A.205 is amended to read as follows:

(1) It shall be the policy of this Commonwealth to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

(2) In the procurement of architectural and engineering services, the purchasing officer shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The purchasing officer shall evaluate current statements of qualifications and performance data on file with the Commonwealth, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three (3) firms regarding anticipated design concepts and the relative utility of alternative methods of approach for furnishing the required services, and shall then select therefrom, in order of preference, based upon criteria established and published by him, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required.

(3) The purchasing officer shall negotiate a contract with the highest qualified firm for architectural and engineering services, *which has an office with an architectural and engineering staff located in the Commonwealth,* at compensation which the purchasing officer determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the purchasing officer shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the purchasing officer be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the purchasing officer determines to be fair and reasonable to the Commonwealth, negotiations with that firm shall be formally terminated. The purchasing officer shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the purchasing officer shall formally terminate negotiations. The purchasing officer shall then undertake negotiations with the third most qualified firm. Should the purchasing officer be unable to negotiate a satisfactory contract with any of the selected firms, the purchasing officer shall select additional firms in order of their competence and qualification and the purchasing officer shall continue negotiations in accordance with this section until an agreement is reached.

(4) KRS 45A.080 to 45A.100 and KRS 45A.165 shall not apply to architect-engineer contracting under this section.

The Committee Substitute to **HB 99** is as follows:

HB 99, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.070 is amended to read as follows:

As used in KRS 45A.070 to 45A.165, unless the context in which they are used clearly requires a different meaning:

(1) "Cost-reimbursement contract" shall mean a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles (as provided in KRS 45A.215), and a fee, if any.

(2) "Established catalogue price" shall mean the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(3) "Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintain ability, useful life, and residual value.

(4) "Invitation for bids" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.080 of this code.

(5) "Request for proposals" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.085, 45A.090, 45A.095 or 45A.100.

(6) "Responsible bidder or offeror" shall mean a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) "Responsive bidder" shall mean a person who has submitted a bid under KRS 45A.080 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

(8) "Kentucky bidder" shall mean any individual, partnership, association, or corporation which maintains at the time of submission of the bid, a bona fide place of business, within the state of Kentucky, and in the case of corporations is duly qualified to do business and is in good standing under the laws of the state of Kentucky.

(9) "Nonresident firm" or "nonresident bidder" shall mean a firm or bidder which does not meet the definition of a "Kentucky bidder" as provided in subsection (8) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The chief purchasing officer, in the purchase of all supplies, services, equipment, commodities and construction by competitive sealed bidding, competitive negotiation, and negotiation after competitive sealed bidding when all bids exceed available funds, shall grant preference to responsive and responsible Kentucky bidders over a nonresident bidder whose state grants preference on like purchases to its resident bidders. The preference applied to Kentucky bidders shall be the same preference as is applied to resident bidders on like purchases in the nonresident firm's state. If a bidder is a resident of a state that has no in-state preference, no preference shall be granted to Kentucky bidders, except that in the case of tie bids between Kentucky bidders and nonresident firms, the award shall be made to the Kentucky bidder.

(2) The secretary of finance and administration shall compile and maintain an up-to-date compilation of the statutes and regulations of other states which statutes and regulations grant a preference to bidders located within those states. The secretary shall specify the documentation, other than statutes and regulations, that state purchasing officers shall accept for purposes of this Act as sufficient evidence that a state grants a preference to resident bidders.

(3) If any provision or condition of this Act conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grant-in-aid programs or other federal aid programs, such provision or condition shall not apply on such federally supported contracts for purchases to the extent that the conflict exists, but all provisions or conditions of this Act with which there is no conflict shall apply to contracts for purchases to be paid in whole or part from federal funds. This section shall not apply to purchases which are subject to Kentucky Constitution, Section 247.

(4) Nothing in this section is intended to override KRS 45A.470 relating to purchase preferences given to prison industries and handicapped industries.

Section 3. KRS 45A.080 is amended to read as follows:

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in

determining whether competitive sealed bidding is not practicable shall include whether:

(a) Specifications can be prepared that permit award on the basis of either the lowest bid price or the lowest evaluated bid price; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state whether award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth therein for the opening of bids. Such notice shall include publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the finance and administration cabinet for all price contracts and purchase contracts estimated to exceed ten thousand dollars ($10,000) not less than seven (7) days before the date set for the opening of the bids.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection.

(5) *Subject to Section 2 of this Act,* the contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or lowest evaluated bid price.

(6) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the secretary.

Section 4. KRS 45A.085 is amended to read as follows:

(1) When, under regulations issued by the secretary, the purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in KRS 45A.095 and 45A.100, a contract may be awarded by competitive negotiation.

(2) Adequate public notice of the request for proposals shall be given in the same manner and circumstances as provided in KRS 45A.080(3).

(3) Contracts may be competitively negotiated when it is determined in writing by the purchasing officer that the bid prices received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which:

(a) Each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate; and

(b) The negotiated price is lower than the lowest rejected bid by any competitive bidder; and

(c) The negotiated price is the lowest negotiated price offered by any competitive offeror.

(4) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals *and the requirements of Section 2 of this Act.*

(6) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

Section 5. KRS 45A.090 is amended to read as follows:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under KRS 45A.080 result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the lowest responsive and responsible bidder; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in KRS 45A.080, then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one bidder, competitive negotiations pursuant to KRS 45A.085 shall be conducted with the three (3) (two (2) if there are only two (2)) bidders determined in writing to be the lowest responsive and responsible bidders to the competitive sealed bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded, *subject to Section 2 of this Act,* upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror.

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with KRS 45A.095.

Section 6. KRS 45A.175 is amended to read as follows:

(1) As used in KRS 45A.170 to 45A.205, "architect" or "engineer" services shall mean those professional services within the scope of practice of architecture, professional engineering, or registered land surveying, pertaining to construction, as defined by the laws of this Commonwealth*;*

(2) "Kentucky firm" shall mean an architectural or engineering firm which has an office with an architectural or engineering staff located in the Commonwealth; and

(3) "Nonresident firm" shall mean an architectural or engineering firm that is not a Kentucky firm.

SECTION 7. A NEW SECTION OF KRS 45A.170 TO 45A.205 IS CREATED TO READ AS FOLLOWS:

(1) In selecting firms under KRS 45A.205(2) for the negotiation of contracts for architectural and engineering services, the purchasing officer shall grant preference to qualified Kentucky firms over a nonresident firm whose state grants preference in awarding such contracts to its resident firms. The preference applied to Kentucky firms shall be the same preference applied to in-state firms in the nonresident firm's state. If a qualified nonresident firm is a resident of a state that has no in-state preference, no preference shall be granted to Kentucky firms.

(2) If any provision or condition of this Act conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grant-in-aid programs or other federal aid programs, such provision or condition shall not apply on such federally supported contracts for architectural or engineering services to the extent that the conflict exists, but all provisions or conditions of this Act with which there is no conflict shall apply to contracts for such services to be paid in whole or part from federal funds. This section shall not apply to purchases which are subject to Kentucky Constitution, Section 247.

(3) Nothing in this section is intended to override KRS 45A.470 relating to purchase preferences given to prison industries and handicapped industries.

Section 8. KRS 45A.205 is amended to read as follows:

(1) It shall be the policy of this Commonwealth to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

(2) In the procurement of architectural and engineering services, the purchasing officer shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The purchasing officer shall evaluate current statements of qualifications and performance data on file with the Commonwealth, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three (3) firms regarding anticipated design concepts and the relative utility of alternative methods of approach for furnishing the required services, and shall then, *subject to Section 7 of this Act,* select therefrom, in order of preference, based upon criteria established and published by him, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required.

(3) The purchasing officer shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the purchasing officer determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the purchasing officer shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the purchasing officer be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the purchasing officer determines to be fair and reasonable to the Commonwealth, negotiations with that firm shall be formally terminated. The purchasing officer shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the purchasing officer shall formally terminate negotiations. The purchasing officer shall then undertake negotiations with the third most qualified firm. Should the purchasing officer be unable to negotiate a satisfactory contract with any of the selected firms, the purchasing officer shall, *subject to Section 7 of this Act,* select additional firms in order of their competence and qualification and the purchasing officer shall continue negotiations in accordance with this section until an agreement is reached.

(4) KRS 45A.080 to 45A.100 and KRS 45A.165 shall not apply to architect-engineer contracting under this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section unless the context requires otherwise:

(a) "Kentucky bidder" shall mean any individual, partnership, association, or corporation which maintains at the time of submission of the bid, a bona fide place of business, within the state of Kentucky, and in the case of corporations is duly qualified to do business and is in good standing under the laws of the state of Kentucky.

(b) "Nonresident firm" or "nonresident bidder" shall mean a firm or bidder which does not meet the definition of a "Kentucky bidder."

(2) The secretary of transportation shall grant preference to responsive and responsible Kentucky bidders over a nonresident bidder whose state grants preference on like purchases to its resident bidders in the award of highway construction and maintenance contracts under this chapter and under KRS Chapters 175, 176, 177 and 180. The preference applied to Kentucky bidders shall be the same preference as is applied to resident bidders on like purchases in the nonresident firm's state. If a bidder is a resident of a state that has no in-state preference, no preference shall be granted to Kentucky bidders, except that in the case of tie bids between Kentucky bidders and nonresident firms, the award shall be made to the Kentucky bidder.

(3) If any provision or condition of this Act conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grant-in-aid programs or other federal aid programs, such provision or condition shall not apply on such federally supported contracts for purchases to the extent that the conflict exists, but all provisions or conditions of this Act with which there is no conflict shall apply to contracts for purchases to be paid in whole or part from federal funds.

Section 10. KRS 176.080 is amended to read as follows:

(1) Each bidder shall accompany his bid with a bond or certified check payable to the state treasurer for a reasonable sum, fixed by the *department* [~~bureau~~], guaranteeing that he will enter into a contract with the *department* [~~bureau~~] for doing the work if the work is awarded to him.

(2) *Subject to Section 9 of this Act,* the contract shall be awarded to the lowest and best bidder. The *department* [~~bureau~~] may require bonds from any contractor to secure the performance of any contract or may require security by any other means it deems advisable.

(3) The *department* [~~bureau~~] may reject any bid when it finds it for the best interest of the state to do so. When all bids are rejected, the *department* [~~bureau~~] shall advertise for new bids as in the first place.

SECTION 11. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The secretary of finance and administration shall collect and analyze data necessary to determine the effects of this Act upon the state government and economy of Kentucky. Such evaluation shall include, without being limited to, the effect of this Act on the costs of state purchasing, bidding by resident and nonresident firms, laws relating to bidding in surrounding states, Kentucky unemployment rates, and the state's efforts to attract firms to locate in Kentucky. All purchasing officers and all state officials responsible for the generation, collection or analysis of data that the secretary deems relevant to the analysis required by this section shall assist the secretary in determining the effects of this Act. On or before January 1, 1986, the secretary shall report his findings to the legislative research commission, which shall have full access to the data collected and analyses performed under this section.

Section 12. Sections 2, 7 and 9 of this Act are repealed effective June 30, 1986.

The Committee on Judiciary-Civil reported **HB 32,** with Committee Amendment attached thereto, and **HB 316** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 32, AN ACT relating to the construction of mineral deeds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

The purposes of this Act are as follows:

(1) To facilitate and require the demonstration of a clear understanding between the owners of surface and mineral estates in land concerning their respective rights to use and occupy or injure the surface of the land;

(2) To protect the security of titles to land and improvements thereto;

(3) To promote the free alienability of land;

(4) To prevent hardship and injustice to surface or mineral owners arising from uncertainty of the

law;

(5) To promote the conservation and the full and efficient use of all natural resources of the state, including the land, the making of improvements to the land, the growth of agriculture, the development of new industry and the general economic well-being of the state and its people;

(6) To codify a rule of construction for mineral deeds relating to coal extraction so as to implement the intention of the parties at the time the instrument was created; and

(7) To foster certainty and uniformity in the operation of the law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

In any instrument heretofore or hereafter executed purporting to sever the surface and mineral estates or to grant a mineral estate or to grant a right to extract minerals, which fails to state or describe in express and specific terms the method of coal extraction to be employed, or where said instrument contains language subordinating the surface estate to the mineral estate, it shall be held, in the absence of clear and convincing evidence to the contrary, that the intention of the parties to the instrument was that the coal be extracted only by the method or methods of coal extraction commonly known to be in use in Kentucky in the area affected at the time the instrument was executed, and that the mineral estate be dominant to the surface estate only for the purposes of coal extraction by the method or methods of coal extraction commonly known to be in use in Kentucky in the area affected at the time the instrument was executed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

For the purpose of this Act, "method" and "methods" mean underground, surface, auger, or open pit mining and nothing in this Act shall be interpreted to adversely affect the use of modern equipment or machinery.

SECTION 4. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

In any deed in which the minerals are severed from the surface, the present owners of the surface rights may enter into a written agreement directing how the surface shall be reclaimed, and how the property shall be left after the extraction of the minerals, and in compliance with federal and state rules and regulations.

The Committee Amendment No. 1 to **HB 32** is as follows:

Amend printed copy of **HB 32,** page 2, line 17, by inserting before "*coal*" the word "*commercial*";

On page 2, line 22, by inserting before "*coal*" the word "*commercial*"; and

On page 3, line 4, by inserting before the period "*with respect to mining methods permitted under Section 2 of this Act.*"

HB 316, AN ACT relating to limited partnerships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 362.470 is amended to read as follows:

(1) A limited partner shall not become liable as a general partner unless, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business. *However, if the limited partner's taking part in the control of the business is not substantially the same as the exercise of the powers of a general partner, he is liable only to persons who transact business with the limited partnership with actual knowledge of his taking part in control.*

(2) A limited partner does not take part in the control of the business within the meaning of subsection (1) of this section solely by doing one (1) or more of the following:

(a) Being a contractor for or an agent or employe of the limited partnership or of a general partner;

(b) Being an officer, director, or shareholder of a general partner;

(c) Consulting with and advising a general partner with respect to the business of the limited partnership;

(d) Acting as surety for the limited partnership;

(e) Approving or disapproving an amendment to the partnership agreement;

(f) Voting on one (1) or more of the following matters:

1. The dissolution and winding up or continuation of the limited partnership;

2. The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership other than in the ordinary course of its business;

3. The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;

4. A change in the nature of the business; or

5. The removal or admission of a general partner.

(3) The enumeration in subsection (2) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes taking part in the control of the business of the limited partnership.

Calendar

HB 243, HB 301, HB 286, HB 356, HB 11, HB 25, and **HB 311** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 166 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **HB 166** be passed.

On the roll call the vote was yeas 49-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, P. Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Foster, Gray, Hancock, Handy, Hines, Johnson, Kenton, Kidd, LeMaster, List, Long, Mann, Meyer, Moberly, Morris, Noe, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Williams, Yates. Nays 44-Allen, Brown, Burnette, Caldwell, Cline, Cowan, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gedling, Guenthner, Harper, Head, Heleringer, Holbrook, Holloway, R. JOnes, Layman, Lefevers, Lile, Little, Maggard, McBee, McElroy, McNutt, Moore, Nett, Noland, Overstreet, Patrick, Pearman, Richards, P. Richardson, Robinson, Todd, Turner, Van Horn, White, Worthington.

HB 166 was passed and the title agreed to.

Representative F. Smith moved that the vote by which **HB 166** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 39 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved that **HB 39** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Kidd, B. Richardson.

HB 39 was passed and the title agreed to.

Representative Kidd moved that the vote on **HB 39** be reconsidered. Rejected.

Representative LeMaster moved that the vote by which **HB 39** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Craddock moved that **HB 113** be passed.

On the roll call the vote was yeas 38-Arnold, Blandford, Brinkley, Bruce, Burch, Burnette, Clapp, P. Clark, Clarke, Craddock, Crupper, Curd, Ellington, Ford, Fryman, Gedling, Guenthner, Hancock, Head, Holbrook, Holloway, R. Jones, LeMaster, Long, Maggard, McNutt, Morris, Noe, Noland, Pearman, Rapier, Rattliff, B. Richardson, P. Richardson, B. Smith, Stone, Todd, White. Nays 51-Allen, Bendl, Bennett, Blevins, Brongr, Brown, Caldwell, Cline, Cowan, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Freibert, Gray, Harper, Heleringer, Johnson, T. Jones, Kenton, Layman, Lefevers, Lile, List, Little, Lundergan, Mann, McBee, McElroy, Meyer, Moore, Nett, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Richards, Seum, F. Smith, Stumbo, Thomas, Turner, Van Horn, Williams, Worthington, Yates.

HB 113 was defeated.

HB 114 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Harper moved that **HB 114** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 114 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 114** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 126 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved that **HB 126** be passed.

On the roll call the vote was yeas 44-Arnold, Bennett, Blandford, Brinkley, Brown, Bruce, Burch, Caldwell, Clapp, Cline, Craddock, Crupper, Cyrus, Dawahare, Deskins, Freibert, Gray, Hancock, Handy, Holbrook, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, McNutt, Meyer, Morris, Noe, O'Brien, Overstreet, Perkins, Rattliff, B. Richardson, Riner, Stumbo, Thomas, Van Horn, White, Williams, Worthington. Nays 48-Allen, Barrows, Blevins, Bronger, Burnette, Clarke, Cowan, Curd, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Fryman, Gedling, Guenthner, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, Layman, Lefevers, Little, Maggard, Mann, McBee, McElroy, Moberly, Moore, Nett, Noland, Patrick, Pearman, Petty, Rapier, Richards, Robinson, Seum, B. Smith, F. Smith, Stone, Todd, Turner, Yates.

HB 126 was defeated.

HB 259 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 259** be passed.

Representative Nett moved that **HB 259** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 60-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, P. Clark, Clarke, Cowan, Cyrus, Dawahare, Donnermeyer, Dunn, Foster, Freibert, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, Lile, Long, Maggard, Mann, McElroy, McNutt, Meyer, Noland, O'Brien, Patrick, Perkins, Petty, Priddy, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Van Horn, Williams, Worthington, Yates. Nays 35-Allen, Barrows, Brown, Clapp, Craddock, Crupper, Curd, Deskins, Ellington, Endicott, Farrow, Ford, Fryman, Gedling, Gray, Heleringer, R. Jones, Layman, LeMaster, List, Little, Lundergan, McBee, Moberly, Moore, Morris, Nett, Noe, Overstreet, Pearman, Rapier, P. Richardson, Robinson, Turner, White.

HB 259 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 259** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 306, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Floor Amendment No. 1 to **HB 306**. Agreed.

Representative Meyer moved that **HB 306**, as amended, be passed.

On the roll call the vote was yeas 92-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 306, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 306**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

The following meetings were announced:

Committee on Rules, on adjournment, State Reception Room.

Committee Chairmen, 30 minutes after adjournment, Room 107.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 449, by Representative LeMaster, Moore, White, and Noland: AN ACT relating to the Court of Justice and making an appropriation therefor.

HB 450, by Representatives O'Brien, Holloway, Yates, Nett, P. Clark, Burch, Priddy, Seum, Guenthner, Heleringer, Lile, Holbrook, Farrow, Dunn, and Bronger: AN ACT relating to benefits for public safety personnel.

HB 451, by Representatives O'Brien, Holloway, Priddy, P. Clark, Guenthner, Burch, Seum, Heleringer, Lile, Holbrook, Farrow, Dunn, and Brongr: AN ACT relating to service requirements for public safety personnel.

HB 452, by Representative Meyer: AN ACT relating to interest.

HB 453, by Representatives LeMaster, Lundergan, List, and Kenton: AN ACT relating to the Court of Justice and making an appropriation therefor.

HB 454, by Representatives Richards and Moberly: AN ACT relating to public school employes and making an appropriation therefor.

HB 455, by Representatives Richards, Holbrook, Johnson, and B. Smith: AN ACT relating to alcoholic beverage control.

HB 456, by Representatives Hancock, Farrow, T. Jones, Long, and Crupper: AN ACT relating to state personnel.

HCR 38, by Representative LeMaster: A CONCURRENT RESOLUTION inviting Governor Martha Layne Collins to address a joint session of the General Assembly.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 416, HB 414, HB 408, HB 392.**

State Government: **HB 47, SB 37, HB 377, HR 20, HCR 15.**

Report of Committees

The Committee on Committees reported the following committee changes:

1. State Representative Don Gedling is to be appointed to the Counties and Special Districts Committee and the Judiciary-Criminal Committee.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative LeMaster moved the adoption of the following **HCR 38:**

HCR 38, A CONCURRENT RESOLUTION inviting Governor Martha Layne Collins to address a joint session of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Honorable Martha Layne Collins, Governor of the Commonwealth of Kentucky, be and she is hereby invited to address a joint session of the General Assembly on Thursday, January 26, 1984, at 8 p.m., to present her budget message.

Section 2. That the Speaker of the House of Representative and the President of the Senate be directed to appoint a committee of each house to wait upon the Governor and escort her to the joint session.

HCR 38 was adopted by voice vote.

Representative LeMaster moved the adoption of the following **HR 29**:

HR 29, A RESOLUTION honoring the Trinity High School Football Team.

WHEREAS, Division AAAA is the most difficult division to compete in high school football; and

WHEREAS, it is a prestigious honor to compete in the championship series of Division AAAA football; and

WHEREAS, the 1983 Trinity High School football team exemplified excellence in athletic competition with a perfect season record of 14 wins and no losses; and

WHEREAS, the Trinity High School football team was crowned the 1983 State AAAA Football Champions;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House honors and commends Trinity Principal Peter Flaig, Head Football Coach Roger Gruneisen, Athletic Director Reverend Harry Jansing, and Assistant Coaches Harold Joyce, Chuck Servino, Chuck Weining, Joe Fowler, Joe Bryant, Ken Ellenbrand and Bruce Lynch, and all the fine young men of the Trinity High School State AAAA Championship Football Team.

Section 2. That this honorable body extends its best wishes to Trinity High School, and especially the football team, in future athletic competition.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to Trinity High School.

HR 29 was adopted by voice vote.

Representative Guenthner moved that a call of the roll be taken to show co-sponsors of **HB 433.** Agreed.

The following members requested that their names be added as Co-sponsor of **HB 433**: Representatives Bendl, Bennett, Bronger, Caldwell, P. Clark, Cowan, Craddock, Curd, Donnermeyer, Freibert, Guenthner, Heleringer, Holloway, R. Jones, Lile, Long, Mann, McNutt, Moore, Nett, O'Brien, Perkins, Petty, Rapier, F. Smith, Stumbo, Todd.

Representative List moved that **HB 121** be reassigned to the Committee on Education. Agreed.

Representative Clarke moved that **HB 337** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Kidd moved that she be recorded as changing her vote from "nay" to "yea" on **HB 39.** Agreed.

Representative Williams moved that he be recorded as voting "yea" on **HB 255**. Rejected.

Representative Donnermeyer moved that the vote on **HB 113** be reconsidered. Agreed.

Representative Donnermeyer moved that the rules be suspended to place **HB 113** in Orders of the Day for January 27, 1984. Agreed.

Representative Moore moved the adoption of the following Legislative Citation No. 9:

The House of Representatives of the Commonwealth of Kentucky hereby applauds Teresa Pierson, daughter of Sara Pierson, for your perfect record of attendance during your twelve years in the Owsley County school system. This noteworthy accomplishment will provide a fine example for today's youth. You have been an inspiration and a model of behavior for the pupils of Owsley County. Your high standards have brought honor and great pride to your school and community.

The House of Representatives honors you and we extend to you our very best wishes. (Sponsored by Representative Moore)

Agreed.

Representative Cowan moved that he be recorded as voting "yea" on **HB 255**. Agreed.

Representative White moved that she be recorded as changing her vote from "nay" to "yea" on **HB 259**. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative P. Clark, **HB 89**; Representative Fryman, **HB 311**; Representative Handy, **HB 314, HB 433**; Representative Heleringer **HB 434**; Representative Lefevers, **HB 311**; Representative Lile, **HB 289; HB 297, HB 307, HB 433**; Representative F. Smith, **HB 33, HB 99, HB 433**; Representative Todd, **HB 311**.

Representative Donnermeyer filed the following Floor Amendment No. 1 to **HB 113**:

Amend printed copy of **HB 113**, page 8, lines 9-26, by deleting same; and

On page 9, lines 1-9, by deleting same.

Announcements

The following meetings were announced:

Energy: Thursday, 9 a.m.

Budget Review of Natural Resources: Cancelled for Thursday.

Budget Review of Natural Resources: Friday, 8 a.m., Room 109.

Adjournment

Representative LeMaster moved that the House adjourn until 2 p.m., Thursday, January 26, 1984.

On the roll call the vote was yeas 71-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Bronger, Brown, Bruce, Burch, Caldwell, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Todd, Turner, Van Horn, White, Williams, Yates. Nays 4-Handy, Holloway, Maggard, Perkins.

The motion to adjourn was adopted.

THURSDAY, JANUARY 26, 1984

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend John Brinson, Kenwood United Methodist Church, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Larry Clark came forward and produced his Certificate of Election. The oath of office was administered by Speaker Bobby H. Richardson.

Jon David Reinhardt came forward and produced his Certificate of Election. The oath of office was administered by Speaker Bobby H. Richardson.

The roll was called. All members present except Representative Dawahare.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 25, 1984, be dispensed with and the same approved.

Introduction of Bills and Resolutions

HR 39, by Representatives Kenton, List, Van Horn, Lundergan, LeMaster, and Freibert: A RESOLUTION commending and recognizing Nancy Farrell for her selection as State Art Educator of the Year.

HB 457, by Representatives T. Jones and Thomas: AN ACT relating to hazardous duty retirement.

HB 458, by Representative T. Jones: AN ACT relating to crimes and punishments.

HB 459, by Representative Guenthner: AN ACT relating to sexually abused, missing and exploited children, including those persons who commit offenses relating thereto.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 452.**

Business Organizations and Professions: **HB 455.**

Counties and Special Districts: **HB 446, HB 447, HB 441.**

Education: **HB 454.**

Judiciary-Civil: **HB 449, HB 453.**

Labor and Industry: **HB 443, HB 444, HB 448.**

State Government: **HB 442, HB 445, HB 450, HB 451, HB 456.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 170, HB 268.**

Report of Committees

The Committee on Rules reported **HB 286, HB 301, HB 229,** and **HB 30** have been posted for passage in Orders of the Day, January 27, 1984.

The Committee on Rules reported **HB 11, HB 69,** and **HB 195** have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Banking and Insurance reported **HB 67,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 67, AN ACT relating to banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of Sections 1 and 3 of this Act:

(a) "Bank" means any institution organized under this chapter or the National Bank Act, as amended, to do a banking business, and having its principal place of business in this state. However, it shall not include an "interim bank" chartered solely for the purpose of facilitating the acquisition of an existing bank unless the existing bank has been in existence for less than five (5) years.

(b) "Bank holding company," "company," and "control" have the meanings accorded them in the federal Bank Holding Company Act of 1956, as amended (12 U.S.C. Section 1841, et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise.

(c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. Individual does not include a corporation.

(d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all banks to their respective supervisory authorities.

(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on the effective date of this Act controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of a bank having its principal place of business in this state if the bank was chartered after the effective date of this Act and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one-bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after the effective date of this Act and has been in existence less than five (5) years at the time of the acquisition.

(3) No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in this state holding more than twenty percent (20%) of the total deposits in all banks in this state as reported in the most recent year-end reports made by the banks to their respective supervisory authorities which are available at the time of the acquisition.

(4) No individual or bank holding company wherever located may acquire control of more than three (3) banks or bank holding companies in this state during any twelve (12) month period.

(5) The limitations set forth in this section or any other provision of KRS Chapter 287 or any regulation promulgated thereunder, as now in effect or amended after this Act takes effect, shall not apply to the acquisition of a bank if, in his discretion, the commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in

danger of closing.

(6) From and after two (2) years after the effective date of this Act any bank holding company having its principal place of business in the United States may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section. For the purposes of this subsection, a bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest.

(7) The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

Section 2. KRS 287.030 is amended to read as follows:

(1) *As used in this section, "person" includes a natural person, partnership, corporation, association, business trust, voting trust, or similar organization.*

(2) No persons, *except corporations,* [~~as individuals or copartners~~] shall engage in the business of private banking in this state.

(3)[~~(2)~~] No bank [~~or banking institution~~] incorporated under the laws of another state *or national bank having its principal place of business outside this state* shall transact any banking business in this state except to lend money.

(4) No person who after this Act takes effect owns or acquires more than one-half (1/2) of the capital stock of a bank shall [~~(3) No person shall, directly or indirectly, hold or own more than one-half of the capital stock of a bank or combined bank and trust company, exclusive of stock held as collateral, except that a person may own or acquire more than one-half of the capital stock of not more than one bank or combined bank and trust company, but no person who hereafter owns or acquires more than one-half of the capital stock of one bank or combined bank and trust company shall: (a) own or acquire directly or indirectly any capital stock in any other bank or combined bank and trust company domiciled in Kentucky, or (b)~~] act as insurance agent or broker with respect to any insurance except credit life insurance, credit health insurance, insurance of the interest of a real property mortgagee in mortgaged property, other than title insurance[~~; but there is no limitation on the amount of capital stock that may be held by the United States or by a corporation in which the United States owns or holds the majority of the stock. As used herein, "person" includes a natural person, partnership, corporation, association, business trust, voting trust, or similar organization~~].

(5) Any person[~~, partnership, corporation, association, business trust, voting trust, or similar organization,~~] or successor or successors thereto, may continue to hold or own capital stock of any bank or combined bank and trust company held or owned by such person or entity upon *the effective date of this Act* [~~June 16, 1972~~], and may thereafter acquire such additional capital stock as is necessary to maintain the same percentage of ownership of capital stock which exists upon *the effective date of this Act* [~~June 16, 1972~~].

(6)[~~(4)~~] No bank incorporated under the laws of the Commonwealth of Kentucky shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, except that a bank may take property of any kind to satisfy or protect a loan previously made in good faith and in the ordinary course of business; and stock so purchased or acquired, shall, within six months from the time of its purchase, be sold or disposed of at public or private sale. This subsection shall not affect or modify in any way KRS 386.025, but said section shall remain in full force and effect.

SECTION 3. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) Any bank holding company which proposes to acquire control of a state-chartered bank or bank holding company which includes a state-chartered bank, shall file a copy of the application for approval of the acquisition with the commissioner for comment, concurrently with its filing with the Federal Reserve Board as provided by the federal Bank Holding Company Act of 1956 as amended.

(2) The commissioner may elect to participate in a joint examination, with the applicable federal reserve bank, of any holding company that controls a state-chartered bank which is on the department's problem bank list as determined by generally accepted bank rating classifications.

Section 4. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection *(2)* [~~(1)~~] of KRS 287.030 shall be fined not less than twenty ($20.00) nor more than fifty dollars ($50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200) to be sued for and collected by the commissioner in

the name of the state.

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the commissioner of banking and securities, who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars ($25.00) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars ($250).

(9) Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred ($100) nor more than five hundred dollars ($500).

(10) Whenever any penalty imposed by subsections (4), (6), (7), (8), or (9) *of this section* is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50.00) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank which violates or any officer, director, employe, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a civil penalty of not more than one thousand dollars ($1,000) per day for each day such violation continues. The penalty shall be assessed and collected by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the penalty the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

The Committee Amendment No. 1 to **HB 67** is as follows:

Amend printed copy of **HB 67**, page 3, line 8, delete everything on the line after "*(4)*"

page 3, delete lines 9, 10, and 11

page 3, line 8, after "*(4)*" by inserting the following:

"*During the period expiring five (5) years after the effective date of this Act, no individual or company wherever located may, directly or indirectly, by merger, consolidation, purchase or any other means, acquire control of a bank or bank holding company if as a result thereof such individual or company would acquire control of more than three (3) banks in this state during any twelve (12 Month period.*"

page 7, line 7, by deleting lines 7 through 19 in their entirety

page 7, line 7, by inserting the following:

"*(1) Any bank holding company which proposes to acquire control of a bank chartered in this state or a bank holding company which includes a bank chartered in this state, shall concurrently file with the commissioner a copy of the application filed with the Federal Reserve Board under applicable federal law. The commissioner shall approve such acquisition within sixty (60) days of acceptance of a complete application unless he finds that:*
(a) the terms of the acquisition are not in accordance with the laws of this state; or
(b) the financial condition, or the competence, experience and integrity of the acquiring company or its principals are such as will jeopardize the financial stability of the acquired bank or bank holding company; or
(c) the public convenience and advantage will not be served by the acquisition.
(2) A non-refundable fee shall accompany each application and shall be set by the commissioner in accordance with KRS 287.480.
(3) The commissioner may examine or elect to participate in a joint examination, with the applicable federal regulatory agency, of any holding company that controls a state-chartered bank.

(4) The cost of an examination shall be assessed against and paid by the company examined. The assessment for the examination shall be calculated in the same manner as that used for bank examinations."

The Committee on Education reported **HB 80**, with Committee Amendment attached thereto, and **HB 153** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 80, AN ACT relating to educational improvement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.650 is amended to read as follows:
As used in KRS 158.660 to 158.730, unless the context otherwise requires:
(1) "Department" means the state department of education;
(2) "Competencies" means the possession of skills, knowledge and understandings to the degree they can be demonstrated or measured;
(3) "Basic skills" means reading, writing, spelling, mathematics, and *library* [~~reference~~] skills;
(4) "Product goals" means expected student outcomes as approved by the state board of education;
(5) "Process goals" means systematic and orderly procedures to be followed in achieving product goals; and
(6) "*Library* [~~Reference~~] skills" means the *ability to locate and utilize* [~~library skills of locating and utilizing~~] various sources of information.
Section 2. KRS 158.660 is amended to read as follows:
It is the intention of the general assembly in enacting KRS 158.650 to 158.740 to assure the right of each student in the public schools of this state to acquire the basic knowledge and *library* [~~reference~~] skills essential for completing high school, pursuing a course of study in post secondary education, or entering the work force in our society. It is further the intention of the general assembly to assure each student in the public schools access to those programs and services appropriate to his educational needs in the areas of basic academic and *library* [~~reference~~] skills development.

The Committee Amendment No. 1 to **HB 80** is as follows:

Amend printed copy of **HB 80**, page 1, lines 11, 16, and page 2, lines 3 and 10, by removing the brackets and strike through around the word "reference" and inserting the following between the word "*library*" and "reference": "*/research/*"

HB 153, AN ACT relating to the election of members for local boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.180 is amended to read as follows:

(1) No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four (24) years; and

(b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the eighth grade in the common schools as shown by the records of the school in which the eighth grade was completed or by affidavits of the teacher or teachers under whom the work was completed, or unless he has the equivalent of an eighth grade education as determined by an examination held under rules and regulations adopted by the state board of education. *Only those board members serving July 1, 1984 and who continue to serve without a break in service shall be eligible with an eighth grade education. All other members elected after July 1, 1984 shall have completed at least the twelfth grade as shown in the same manner as described herein*; or

(d) Who holds a state office requiring the constitutional oath or is a member of the general assembly; or

(e) Who holds or discharges the duties of any civil or political office, deputyship or agency under the city or county of his residence; or

(f) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery or any other property, materials, supplies, equipment or services for which school funds are expended; or

(g) Who has been removed from membership on a board of education for cause.

(2) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (f) of subsection (1) of this section, or becomes a candidate for nomination or election to any office or agency the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he moves his residence from the district for which he was chosen, or if he does anything that would render him ineligible for re-election, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.

(3) A board member shall be eligible for re-election unless he becomes disqualified.

(4) No member of a board of education shall cast a vote regarding the appointment or employment in any capacity of any person related to him as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law or first cousin; except when the majority vote of the remainder of the board is in the affirmative regarding the appointment or employment of such person.

Section 2. KRS 160.190 is amended to read as follows:

(1) Any vacancy in any board of education shall be filled by the other members of the board within ninety (90) days after the vacancy occurs. If the vacancy is not filled by the other members of the board within ninety (90) days, it shall be filled by the state board of education within thirty (30) days after information has been filed by any citizen of the district that the vacancy has existed for more than ninety (90) days. The member so chosen shall *meet the eligibility requirements as established by KRS 160.180 and shall* hold office until his successor is elected and has qualified.

(2) Any vacancy having an unexpired term of one (1) year or more at the next regular November election after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the board of education or the state board of education to fill the vacancy.

The Committee on Energy reported **HB 57** with Committee Substitute attached thereto, **HB 214** with Committee Substitute attached thereto, **HB 215** with Committee Substitute attached thereto, and **HB 333** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 57, AN ACT relating to utility transactions with affiliates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

In determining just and reasonable rates, the commission shall investigate and review transactions between affiliates. The commission shall limit the authorized rate of return of the utility to a level which, when considered with the level of profit or return the affiliate earns on transactions with the utility, is just and reasonable.

The Committee Substitute to **HB 57** is as follows:

HB 57, AN ACT relating to utility transactions with affiliates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

In determining just and reasonable rates, the commission shall investigate and review natural gas purchasing transactions of a utility, whose rates for retail sales of natural gas are regulated by the commission, from an affiliate. The commission shall limit the authorized rate of return of the utility for its natural gas operations to a level which, when considered with the level of profit or return the affiliate earns on natural gas transactions to such utility, is just and reasonable.

HB 214, AN ACT relating to natural gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Intrastate pipeline" means any utility or any other person engaged in natural gas transportation in intrastate commerce, for compensation, to or for another person or to or for the public;

(2) "Interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the federal energy regulatory commission under the natural gas act or the natural gas policy act of 1978;

(3) "Local distribution company" means any utility or any other person, other than an interstate pipeline or an intrastate pipeline, engaged in transportation or local distribution of natural gas and the sale of natural gas for ultimate consumption;

(4) "Intrastate commerce" includes the production, gathering, treatment, processing, transportation and delivery of natural gas entirely within the Commonwealth which is not subject to the jurisdiction of the federal energy regulatory commission under the natural gas act or the natural gas policy act of 1978;

(5) "Transportation" includes exchange, backhaul, displacement or other means of transportation; and

(6) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The public service commission may, by rule or order, authorize and require the transportation of natural gas in intrastate commerce by intrastate pipelines, or by local distribution companies, for any person for one or more uses, as defined by the commission by rule, in the case of:

(a) Natural gas sold by a producer, pipeline or other seller to such person; or

(b) Natural gas produced by such person.

(2) The commission may, for reasons of safety, deliverability or operational efficiency, exclude from the requirements of this section any part of any pipeline solely dedicated to storage, or gathering, or low pressure distribution of natural gas.

(3) The rates and charges of any intrastate pipeline or local distribution company with respect to any transportation authorized and required under this section shall be fair and reasonable.

(4) Nothing in this section is intended to relieve any pipeline of further obligations as a common carrier under KRS 278.470, 278.480, and 278.490.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the policy of the public service commission to facilitate greater utilization of the natural gas produced or available for production within the state, where this can be done without detriment to the customers of utilities under jurisdiction of the commission.

(2) This policy may be implemented by requiring the transportation of natural gas in intrastate commerce for persons who own or have purchased gas, as provided in Section 2 of this Act.

(3) The commission shall maintain at its offices for public inspection all rates and charges for natural gas transportation which are filed with the commission, and copies of federal or state rules which govern transportation of natural gas.

(4) The commission may implement this policy by gathering and maintaining, for public inspection, various information concerning natural gas markets. Such information may include, but not by way of limitation:

(a) Lists of producers of undedicated natural gas, together with such descriptions of available quantity, location or price as may be available to the commission;

(b) Lists of persons seeking a supply of natural gas, together with such descriptions as may be available to the commission;

(c) Sources of legal or technical expertise in natural gas procurement or marketing, which may be available to the commission;

(d) Purchase contracts filed with the commission, except to the extent that the parties to such contracts have requested that portions of these contracts be treated as confidential.

(5) The commission may adopt or develop model contracts or forms if it determines that such models would simplify negotiations between parties in the direct sale of natural gas.

(6) The commission shall not implement this policy by engaging directly in the procurement or marketing of natural gas as an agent of any person.

(7) The commission shall not regulate contracts between producers and purchasers of natural gas except to the extent that any party or parties to the contract are otherwise subject to commission regulation and commission review of contracts under this chapter. The commission may, however, require that contracts be filed with the commission.

The Committee Substitute to **HB 214** is as follows:

HB 214, AN ACT relating to natural gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Intrastate pipeline" means any utility or any other person engaged in natural gas transportation in intrastate commerce, for compensation, to or for another person or to or for the public, but shall not include any part of any pipeline dedicated to storage or gathering or low pressure distribution of natural gas;

(2) "Interstate pipeline" means any person engaged in natural gas transportation subject to the jurisdiction of the federal energy regulatory commission under the natural gas act or the natural gas policy act of 1978;

(3) "Local distribution company" means any utility or any other person, other than an interstate pipeline or an intrastate pipeline, engaged in transportation or local distribution of natural gas and the sale of natural gas for ultimate consumption, but shall not include any part of any pipeline primarily used for storage or gathering or low pressure distribution of natural gas;

(4) "Intrastate commerce" includes the production, gathering, treatment, processing, transportation and delivery of natural gas entirely within the Commonwealth which is not subject to the jurisdiction of the federal energy regulatory commission under the natural gas act or the natural gas policy act of 1978;

(5) "Transportation" includes exchange, backhaul, displacement or other means of transportation; and

(6) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The public service commission may, by rule or order, authorize and require the transportation of natural gas in intrastate commerce by intrastate pipelines, or by local distribution companies with unused or excess capacity not needed to meet existing obligations of the pipeline or distribution company, for any person for one or more uses, as defined by the commission by rule, in the case of:

(a) Natural gas sold by a producer, pipeline or other seller to such person; or

(b) Natural gas produced by such person.

(2) The rates and charges of any intrastate pipeline or local distribution company with respect to any transportation authorized and required under this section shall be fair and reasonable.

(3) Nothing in this section is intended to relieve any intrastate pipeline of further obligations as a common carrier under KRS 278.470, 278.480, and 278.490.

SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

All natural gas, authorized and required to be transported pursuant to Section 2 of this Act shall:

(1) Be of the same quality and meet the same specifications as that natural gas being purchased by the intrastate pipeline or local distribution company as contained in the federal energy regulatory commission tariff applicable to the intrastate pipeline or local distribution company's natural gas supplier;

(2) Be delivered to the intrastate pipeline or local distribution company by the person for whom the natural gas is to be transported at a point in the system technically capable of receiving gas at the proposed delivery rate and proper pressure;

(3) Be transported pursuant to a written contract between the parties setting forth specific arrangements as to volumes to be transported, points of delivery, method of metering, timing of receipts and deliveries of gas and other matters relating to individual customer circumstances;

(4) Not be transported if the performance of this service would detrimentally affect the ability of the intrastate pipeline or local distribution company to supply regular gas service to its customers;

(5) Be subject to curtailment and interruption when in the judgment of the intrastate pipeline or local distribution company, said curtailment or interruption is necessary to enable the maintenance of deliveries to residential and other high priority customers or to respond to an emergency.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the policy of the public service commission to facilitate greater utilization of the natural gas produced or available for production within the state, where this can be done without detriment to the customers of utilities under jurisdiction of the commission.

(2) This policy may be implemented by requiring the transportation of natural gas in intrastate commerce for persons who own or have purchased gas, as provided in Section 2 of this Act.

(3) The commission shall maintain at its offices for public inspection all rates and charges for natural gas transportation which are filed with the commission, and copies of federal or state rules which govern transportation of natural gas.

(4) The commission may implement this policy by gathering and maintaining, for public inspection, various information concerning natural gas markets. Such information may include, but not by way of limitation:

(a) Lists of producers of undedicated natural gas, together with such descriptions of available quantity, location or price as may be available to the commission;

(b) Lists of persons seeking a supply of natural gas, together with such descriptions as may be available to the commission;

(c) Sources of legal or technical expertise in natural gas procurement or marketing, which may be available to the commission;

(d) Transportation contracts filed with the commission, except to the extent that the parties to such contracts have requested that portions of these contracts be treated as confidential.

(5) The commission may adopt or develop model contracts or forms if it determines that such models would simplify negotiations between parties in the direct sale of natural gas.

(6) The commission shall not implement this policy by engaging directly in the procurement or marketing of natural gas as an agent of any person.

(7) The commission shall not regulate contracts between producers and purchasers of natural gas except to the extent that any party or parties to the contract are otherwise subject to commission regulation and commission review of contracts under this chapter.

HB 215, AN ACT relating to natural gas utility purchasing practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) In determining whether proposed natural gas utility rates are just and reasonable or if purchased natural gas costs proposed to be billed to consumers are just and reasonable, the commission shall review the utility's gas purchasing practices. The commission may disallow any costs or rates which are deemed to result from:

(a) Imprudent purchasing practices on the part of the utility;

(b) Contracting practices which were not conducted at arm's length; or

(c) Any other basis on which the commission determines that the purchasing practices of the utility have resulted in unjust or unreasonable rates.

(2) When proposing new rates or purchased gas cost adjustments, the utility shall be required to prove that the proposal is just and reasonable in accordance with the requirements of this section.

(3) It shall be presumed that natural gas purchases from affiliated companies are not conducted at arm's length.

(a) For purposes of this subsection, affiliated companies shall be defined as those in which one (1) or more of the owners control or have the right to control the business affairs of all affected companies.

(b) In instances in which a utility purchases natural gas from an intrastate affiliate, the commission shall assume jurisdiction of the affiliated company as though it were a utility as defined in KRS 278.010. The commission's jurisdiction shall extend to that extent necessary to ensure that the rates charged the utility and ultimately to the consumer are just and reasonable.

(c) If the commission determines that the rates charged by the utility are not just and reasonable in that the cost of natural gas purchased from the affiliated company is unjust or unreasonable, the commission may reduce the purchased gas component of the utility's rates by the amount deemed to be unjust or unreasonable.

(d) The commission may also reduce the rate charged by the affiliated company by the same amount.

The Committee Substitute to **HB 215** is as follows:

HB 215, AN ACT relating to natural gas utility purchasing practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) In determining whether proposed natural gas utility rates are just and reasonable, the commission shall review the utility's gas purchasing practices. The commission may disallow any costs or rates which are deemed to result from imprudent purchasing practices on the part of the utility.

(2) When proposing new rates, the utility shall be required to prove that the proposal is just and reasonable in accordance with the requirements of this section.

(3) It shall be presumed that natural gas purchases from affiliated companies are not conducted at arm's length.

(a) For purposes of this subsection, affiliated companies shall be defined as those in which one (1) or more of the owners control or have the right to control the business affairs of all affected companies.

(b) In instances in which a utility purchases natural gas from an intrastate affiliate, the commission shall assume jurisdiction of the affiliated company as though it were a utility as defined in KRS 278.010. The commission's jurisdiction shall extend to that extent necessary to ensure that the rates charged the utility and ultimately to the consumer are just and reasonable.

(c) If the commission determines that the rates charged by the utility are not just and reasonable in that the cost of natural gas purchased from the affiliated company is unjust or unreasonable, the commission may reduce the purchased gas component of the utility's rates by the amount deemed to be unjust or unreasonable.

(d) The commission may also reduce the rate charged by the affiliated company by the same amount.

HB 333, AN ACT relating to rural electric cooperative corporations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.120 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, corporations formed under this chapter shall supply electric energy, furnish services and sell *merchandise and property acquired for resale* [~~personal property~~], except that transferred in part payment for other *merchandise and property acquired for resale* [~~personal property~~], to their members only.

(2) Except as provided in KRS 279.125, any corporation formed under this chapter may supply electric energy, furnish services and sell *merchandise and property acquired for resale* [~~property~~], to the extent of not more than *forty-nine percent (49%)* [~~twenty-five per cent (25%)~~] of its total business, to nonmembers of the corporation, including any federal agency, this state, and any county, city or political subdivision of this state *or any other state.*

Section 2. Whereas, such amendments will result in major savings to Kentucky consumers of electricity, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 333** is as follows:

HB 333, AN ACT relating to rural electric cooperative corporations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.120 is amended to read as follows:

(1) Except as provided in *subsections* [~~subsection~~] (2) *and (3)* of this section, corporations formed under this chapter shall supply electric energy, furnish services and sell personal property, except that transferred in part payment for other personal property, to their members only.

(2) Except as provided in *subsection (3) of this section and in* KRS 279.125, any corporation formed under this chapter may supply electric energy, furnish services and sell property, to the extent of not more than *forty-nine percent (49%)* [~~twenty-five per cent (25%)~~] of its total business, to nonmembers of the corporation, including any federal agency, *any other state, and any county, city or political subdivision thereof* [~~this state, and any county, city or political subdivision of this state~~].

(3) A corporation formed under this chapter may sell and lease back any part or all of its property free of the restrictions contained in subsections (1) and (2) of this section, or any other section of the Kentucky Revised Statutes except that such sale shall be subject to KRS 279.140.

Section 2. Whereas, such amendments will result in major savings to Kentucky consumers of electricity, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Judiciary-Criminal reported **HB 226** with Committee Amendment attached thereto, **HB 282,** and **HB 345** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 226, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 501 IS CREATED TO READ AS FOLLOWS:

Any act done to a human fetus which would be a crime if done to a human being after birth shall be considered as the same crime unless such act is authorized pursuant to decisions of the Supreme Court of the United States.

The Committee Amendment No. 1 to **HB 226** is as follows:

Amend printed copy of **HB 226,** on page 1, line 5, to delete "*pursuant*" and to insert in lieu thereof "*by law.*"

and on page 1, line 6, to delete the same.

HB 282, AN ACT relating to custodial interference.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 509.070 is amended to read as follows:

(1) A person is guilty of custodial interference when, knowing that he has no legal right to do so, he takes, entices or keeps from lawful custody any mentally disabled or other person entrusted by authority of law to the custody of another person or to an institution.

(2) It is a defense to custodial interference that the person taken from lawful custody was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.

(3) Custodial interference is a Class D felony unless the person taken from lawful custody is returned voluntarily by the defendant [~~or unless the defendant is a relative of the victim in which case it is a Class A misdemeanor~~].

HB 345, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 526.010 is amended to read as follows:

The following definition applies in this chapter, unless the context otherwise requires:

(1) "Eavesdrop" means to overhear, record, amplify or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical or other device.

(2) It shall also be considered eavesdropping to record a telephone communication otherwise authorized by this chapter unless the recording device is equipped with a mechanism for generating a tone audible for three (3) seconds out of every fifteen (15) seconds of recording. The tone shall be audible to the person whose conversation is being recorded and shall be audible on the recording. Prior to the use of the recording device the person making the recording shall notify the person being recorded of the fact that the conversation following the notice will be recorded and obtain the consent of all parties to the conversation. This section shall not apply to the recording of incoming calls by a public law enforcement agency, a fire department, ambulance service, rescue squad, or hospital emergency department.

The Committee Amendment No. 1 to **HB 345** is as follows:

Amend printed copy of **HB 345,** on page 1, line 13, following the word "*recording*" to add "*or prior to the use of the recording device the person making the recording shall notify the person being recorded of the fact that the conversation following the notice will be recorded and obtain the consent of all parties to the conversation*"

and on page 1, line 16, to delete "*Prior to the use of the recording device the*"

and on page 1, lines 17, 18 and 19, to delete the same.

and on page 1, line 20, to delete "*parties to the conversation.*"

The Committee on Business Organizations and Professions reported **HB 52, HB 53** with Committee Amendment attached thereto, **HB 71, HB 177** with Committee Substitute attached thereto, **HB 210,** and **HB 270** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 52, AN ACT relating to occupational and professional licensing boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.066 is amended to read as follows:

(1) The division of occupations and professions shall provide administrative services, technical assistance and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the state board of accountancy, Kentucky athletic commission, the state board of

examiners and registration of architects, the Kentucky board of barbering, the Kentucky board of hairdressers and cosmetologists, the state board of podiatry, the Kentucky state board of chiropractic examiners, the Kentucky board of dentistry, the state board of embalmers and funeral directors, the state board of registration for professional engineers and land surveyors, the board of nursing education and nurse registration, the Kentucky board of ophthalmic dispensers, the Kentucky board of optometric examiners, the Kentucky board of pharmacy, the state board of physical therapy, the board of examiners of psychologists, the state real estate commission, the Kentucky board of veterinary examiners, the Kentucky board of examiners in watchmaking, the state board of auctioneers, the state board for proprietary education, the state board of examiners and registration of landscape architects, the state board of medical licensure, the state board of examiners of speech pathology and audiology, the Kentucky board of licensure for nursing home administrators, the Kentucky board for licensing hearing aid dealers, the state board of examiners of social work of Kentucky, and such other boards and commissions as are created to license, certify, register or otherwise regulate any occupational or professional category.

(2) To the extent that the division does provide administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.

(3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission. *The division shall devise and have published a standardized complaint form to be made available to and used by the boards and commissions in handling complaints. The division may charge a fee for the forms not to exceed the actual cost of devising and publishing the forms.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) A board or commission shall receive complaints concerning any person licensed under its respective enabling statutes. A complaint shall be made on forms provided by the division to the boards and commissions for such purposes. A board or commission may, at its discretion, accept telephone complaints. A board or commission shall not accept an anonymous complaint unless it believes the nature of the complaint is sufficiently serious to pose a real and present danger to the public health or safety.

(2) Each complaint shall contain the name of the licensee against whom the complaint is lodged, the name, address and phone number of the complaining party, the date of the complaint, a brief statement of the nature of the complaint and the final disposition of the complaint. A copy of each complaint shall be forwarded to the division if the complaint did not originate in the division. A complaint shall not be subject to public inspection unless the complaint results in disciplinary action being taken against the licensee. Records of complaints shall be maintained by a board or commission for five (5) years.

(3) A board or commission shall investigate any complaint duly received by it and shall promulgate necessary and reasonable rules and regulations for the conduct of such investigations. If a complaint is substantiated by investigation and the complaint constitutes a violation of law or regulations under which the licensee practices, the board or commission shall take disciplinary action consistent with enforcement provisions of its enabling statutes. The complainant shall be notified of the final disposition of his complaint as well as any disciplinary action initiated as a result of his complaint. The provisions of this section shall not be construed as preventing a board or commission from initiating an investigation on its own volition.

(4) By September 1 of each year a board or commission shall have completed a report on complaints processed by it in the preceding fiscal year. The report shall contain complete information on complaints resulting in disciplinary actions and a statistical summary of other complaints. A copy of the report shall be forwarded to the division and to the legislative research commission and shall be made available to any person upon request.

HB 53, AN ACT relating to anatomical gifts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.187 is amended to read as follows:

(1) In any case in which a patient is in need of a cornea or corneal tissue for a transplant, the coroner, medical examiner, or his appropriately qualified designee with training in ophthalmologic techniques may, upon the request of any person authorized under KRS 311.185, provide or authorize the removal of the

cornea or corneal tissue by a qualified physician under the following conditions:

(a) The decedent has been defined as a "coroner's case" as set forth by KRS 72.405(2), an autopsy has been ordered pursuant to KRS 72.410, and the cornea or corneal tissue are suitable for transplant;

(b) No objection by the next of kin is known by the coroner or medical examiner; and

(c) The removal of the cornea or corneal tissue will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance.

(2) The medical examiner, coroner, or his appropriately qualified designee or any persons authorized under KRS 311.185 shall not be held liable in any civil or criminal action for failure to obtain consent of the next of kin.

(3) A funeral director, licensed in accordance with KRS Chapter 316 and certified by a department of ophthalmology in an accredited school of medicine as having received competent training, may enucleate eyes for gift after proper certification of death by a physician and in compliance with the provisions of KRS 311.175.

The Committee Amendment No. 1 to **HB 53** is as follows:

Amend printed copy of **HB 53**, on page 2, line 5, after the numeral *(3)*, by deleting the words, "*A funeral director*" and inserting in lieu thereof the words "*An embalmer*".

HB 71, AN ACT relating to the advertising of alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:
244.140 - Advertising brands by retailers prohibited.
244.530 - Signs on premises.

HB 177, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.075 is amended to read as follows:

Notwithstanding the provisions of KRS *243.060 or* 243.070, in any city of the third or fourth class *or county containing such cities* in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120, and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city *and county* is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city *or county* budget period at such percentage rate as shall be reasonably estimated to fully reimburse the city *or county* for the estimated costs of any additional, policing regulatory or administrative expenses related to the sale of alcoholic beverage in the city. Such regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to any licenses or fees imposed by the city *or county* pursuant to KRS *243.060 or* 243.070.

The Committee Substitute to **HB 177** is as follows:

HB 177, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.075 is amended to read as follows:

Notwithstanding the provisions of KRS *243.060 or* 243.070, in any city of the third or fourth class *or county containing such cities or other county* in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120, and in the case of fourth class cities, KRS 242.127 to 242.129, the governing body of the city *and county* is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city *or county* budget period at such percentage rate as shall be reasonably estimated to fully reimburse the city *or county* for the estimated costs of any additional, policing regulatory or administrative expenses related to the sale of alcoholic beverage in the city. Such regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to any licenses or fees imposed by the city *or county* pursuant to KRS *243.060 or* 243.070. *Each city described in this section may impose a regulatory license fee not to exceed three percent (3%) of the gross receipts of each establishment therein licensed to sell alcoholic beverages. Each county described in this section may impose a regulatory license fee not to exceed two percent (2%) of the gross receipts of each establishment therein licensed to sell alcoholic beverages. This section shall apply only to such cities and counties referred to herein which have voted wet since 1980.*

HB 210, AN ACT relating to alcoholic beverage control administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of a county administrator involving suspension or revocation of a license for violations of county ordinances or regulations shall be taken to the circuit court for the county in which the licensed premises is located by filing with the clerk of the court notice of appeal and a certified copy of the order of the county administrator within ten (10) days after the issuance of such order. The county administrator shall transmit a certified record of the proceedings from which such order was issued to the clerk of the court in which the appeal was filed within thirty (30) days after the issuance of the order which is being appealed. The clerk shall docket the case in the manner of a civil proceeding.

SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of a city administrator involving suspension or revocation of a license for violations of city ordinances or regulations shall be taken to the circuit court for the county in which the licensed premises is located by filing with the clerk of the court notice of appeal and a certified copy of the order of the city administrator within ten (10) days after the issuance of such order. The city administrator shall transmit a certified record of the proceedings from which such order was issued to the clerk of the court in which the appeal was filed within thirty (30) days after the issuance of the order which is being appealed. The clerk shall docket the case in the manner of a civil proceeding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of an urban-county administrator involving suspension or revocation of a license for violations of urban-county ordinances or regulations shall be taken to the circuit court for the county in which the licensed premises is located by filing with the clerk of the court notice of appeal and a certified copy of the order of the urban-county administrator within ten (10) days after the issuance of such order. The urban-county administrator shall transmit a certified record of the proceedings from which such order was issued to the clerk of the court in which the appeal was filed within thirty (30) days after the issuance of the order which is being appealed. The clerk shall docket the case in the manner of a civil proceeding.

Section 4. KRS 241.110 is amended to read as follows:

(1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county judge/executive shall thereupon constitute a county alcoholic beverage control administrator for the county. However, the county judge/executive may decline to accept said office, or after accepting same he may resign therefrom, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, he may thereupon appoint a person at least thirty (30) years of age, who at the time of his appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge/executive as county alcoholic beverage control administrator for such county. Before entering upon his duties as such county alcoholic beverage control administrator appointed by the county judge/executive the appointee shall take the oath prescribed by section 228 of the constitution and execute a bond with a good corporate surety in the penal sum of one thousand dollars ($1,000). The cost of the bond shall be borne by the county. Upon the qualification of such person as county alcoholic beverage control administrator for such county, he shall immediately notify the board.

(2) The functions of such county alcoholic beverage control administrator, appointed by the county

judge/executive, shall be the same as set out in KRS 241.140.

(3) The compensation of such county alcoholic beverage control administrator, appointed by the county judge/executive, shall be fixed by the fiscal court in accordance with KRS 64.530. The county judge/executive may also appoint such investigators and clerks as are deemed necessary for the proper conduct of such county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court pursuant to KRS 64.530, and they will serve at the pleasure of the county judge/executive.

(4) No person shall be a county alcoholic beverage control administrator, as herein provided for, an investigator or an employe of the county under the supervision of such county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.

(5) The said county alcoholic beverage control administrator, appointed by the county judge/executive, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be over the unincorporated areas of such county and within the corporate limits of any city therein not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(6) Appeals from any order of such county alcoholic beverage control administrator, appointed by the county judge/executive, shall be made pursuant to KRS 241.150 *or Section 1 of this Act.*

Section 5. KRS 241.140 is amended to read as follows:

(1) The functions of each county administrator shall be the same, with respect to local licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a county administrator may be less stringent than statutes relative to alcoholic beverage control or than the regulations of the board. No regulation of a county administrator shall become effective until it has been approved by the board. If any city appoints its own administrator as provided for in KRS 241.170, the county administrator in that county shall have jurisdiction over only that portion of the county which lies outside the corporate limits of that city.

(2) The county administrator shall conduct a formal hearing for each licensee cited for violating a county ordinance or regulation where the penalty for such violation might result in suspension or revocation of a license.

Section 6. KRS 241.150 is amended to read as follows:

Appeals from the orders of a county administrator, *except those involving suspension or revocation of a license for violation of a county ordinance or regulation,* may be taken to the board by filing with the board within ten (10) days a certified copy of the orders of the county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the county administrator shall be governed by KRS 243.550 to 243.590.

Section 7. KRS 241.190 is amended to read as follows:

(1) The functions of each city administrator shall be the same with respect to city licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by a city administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the board. No regulation of a city administrator shall become effective until it has been approved by the board.

(2) The city administrator shall conduct a formal hearing for each licensee cited for violating a city ordinance or regulation where the penalty for such violation might result in suspension or revocation of a license.

Section 8. KRS 241.200 is amended to read as follows:

Appeals from the orders of each city administrator, *except those involving suspension or revocation of a license for violation of a city ordinance or regulation,* may be taken to the board, by filing with the board within ten (10) days a certified copy of the orders of the city administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the city administrator shall be governed by KRS 243.550 to 243.590.

Section 9. KRS 241.250 is amended to read as follows:

(1) The functions of each urban-county administrator shall be the same with respect to urban-county licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by an urban-county administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the board. No regulation of an urban-county administrator shall become effective until it has been approved by the board.

(2) The urban-county administrator shall conduct a formal hearing for each licensee cited for violating an urban-county ordinance or regulation where the penalty for such violation might result in suspension or revocation of a license.

Section 10. KRS 241.260 is amended to read as follows:

Appeals from the orders of each urban-county administrator, *except those involving suspension or revocation of a license for violation of an urban-county ordinance or regulation,* may be taken to the board by filing with the board within ten (10) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS 243.550 to 243.590.

Section 11. KRS 243.550 is amended to read as follows:

Hearings upon appeals from orders of a county administrator, [~~or~~] a city administrator *or an urban-county administrator, except as provided by Section 1, Section 2 or Section 3 of this Act,* a determination of a state administrator, or upon proceedings for revocation or suspension shall be held by the board. The board may, at its discretion, hold the hearing in Frankfort, or in the county where the licensed premises, or the premises to be licensed, are located. The board shall control the introduction of evidence and shall hear all arguments of the parties or their counsel as it or he deems necessary or appropriate. The procedure on such hearings shall be summary and in accordance with the regulations of the board. A record of the orders appealed from or the charges filed, of the evidence heard and of all steps taken, shall be kept by the board. Decisions shall be made and orders entered only upon the vote of a majority of the board.

HB 270, AN ACT relating to occupations and professions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.066 is amended to read as follows:

(1) The division of occupations and professions shall provide administrative services, technical assistance and advice to the following boards and commissions at the request of the individual boards or commissions, all of which maintain their identity and their full authority for making policy decisions in the fields that they regulate: the state board of accountancy, Kentucky athletic commission, the state board of examiners and registration of architects, the Kentucky board of barbering, the Kentucky board of hairdressers and cosmetologists, the state board of podiatry, the Kentucky state board of chiropractic examiners, the Kentucky board of dentistry, the state board of embalmers and funeral directors, the state board of registration for professional engineers and land surveyors, the board of nursing education and nurse registration, the Kentucky board of ophthalmic dispensers, the Kentucky board of optometric examiners, the Kentucky board of pharmacy, the state board of physical therapy, the board of examiners of psychologists, the state real estate commission, the Kentucky board of veterinary examiners, the Kentucky board of examiners in watchmaking, the state board of auctioneers, the state board for proprietary education, the state board of examiners and registration of landscape architects, the state board of medical licensure, the state board of examiners of speech pathology and audiology, the Kentucky board of licensure for nursing home administrators, the Kentucky board for licensing hearing aid dealers, the state board of examiners of social work of Kentucky, and such other boards and commissions as are created to license, certify, register or otherwise regulate any occupational or professional category.

(2) To the extent that the division does provide administrative services, the respective boards and commissions are relieved of the power and duty to provide the services for themselves. The division shall charge each board or commission a reasonable amount for administrative services provided pursuant to subsection (1) of this section. The division may employ persons previously employed by boards or commissions.

(3) The division may receive complaints against the conduct of licensees granted licensure by the boards and commissions assigned to the division for administrative purposes. The division shall cause such complaints to be reduced to writing and forwarded to the appropriate board or commission for investigation and a determination of the validity of the complaint. The division shall keep a record of all complaints received by it and forwarded to a board or commission.

(4) Any board or commission listed in subsection (1) of this section, shall accept personal checks in payment of license and examination fees or any other fee levied in accordance with the respective licensing statutes.

The Committee Amendment No. 1 to **HB 270** is as follows:

Amend printed copy of **HB 270,** on page 2, line 8, after the word "*license*" by deleting the words "*and examination*" and insert in lieu thereof the word "*renewal*", and after the word "*fees*" by deleting the words "*or any other fee*" and by deleting lines 9 and 10 in their entirety.

The Committee on Natural Resources and Environment reported **HJR 1, HJR 2, HJR 3,** and **HCR 21** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 1, A JOINT RESOLUTION directing the Kentucky Commerce Cabinet to study the impact of the closure of the locks and dams on recreational activities and tourism in the Kentucky River Basin, and

making an appropriation therefor.

WHEREAS, the Kentucky River has provided the Commonwealth with a natural tourist attraction for water enthusiasts, naturalists, sportsmen, and boaters; and

WHEREAS, these people provide the state with tax revenue through the payment for various types of required licenses, sales tax, and gasoline tax; and

WHEREAS, the closure of the locks and dams may have a significant impact on local economics as a result of limiting boaters to intrapool movements; and

WHEREAS, the Kentucky River Task Force received testimony that adverse economic conditions occurred in the communities above Lock 10 as a result of the 1982 lock closings; and

WHEREAS, the 1983 closure of Locks 5-10 could affect tourist operations in Boonesboro, Shakertown and Frankfort, but time constraints placed on the Task Force made a thorough analysis virtually impossible;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Commerce Cabinet study the impact of the closure of the locks and dams on recreational activities and tourism in the Kentucky River Basin to determine:

(a) Whether the decision to close the Kentucky River by the U.S. Army Corps of Engineers created a detrimental economic impact and what legal liability the Corps might incur resulting from their decision; and

(b) Whether those adverse consequences can be relieved by state participation in the operation of the locks on the Kentucky River.

Section 2. The Kentucky Commerce Cabinet complete its study and make recommendations to the Legislative Research Commission on or before July 1, 1985.

Section 3. A sum of fifty thousand dollars ($50,000) be appropriated from the general fund during the fiscal year beginning July 1, 1984, for the purposes of completion of this study.

HJR 2, A JOINT RESOLUTION directing the Natural Resources and Environmental Protection Cabinet to commence negotiations with the U.S. Army Corps of Engineers for the operation and maintenance of the Kentucky River by the Commonwealth of Kentucky and making appropriations therefor.

WHEREAS, by act of the 1880 General Assembly, the Commonwealth of Kentucky ceded to the federal government title to the existing locks and dams on the Kentucky River and the right of acquisition of any lands, buildings, or other property necessary for the extension of the navigation system; and

WHEREAS, the U.S. Army Corps of Engineers constructed additional locks and dams and assumed responsibility for the operation and maintenance of all locks and dams on the Kentucky River for the next one hundred years; and

WHEREAS, the Corps of Engineers has ceased operation of locks 5-14 on the Kentucky River; and

WHEREAS, the closure of these locks affects recreational boating, tourism, the potential for commercial navigation, and economic and industrial development; and

WHEREAS, KRS 151.580 allows the Natural Resources and Environmental Protection Cabinet to "negotiate with the appropriate federal agencies for the operation or maintenance of a navigable waterway within the state boundaries;" and

WHEREAS, the drought of 1983 emphasizes the importance of the present stage of the Kentucky River in supplying water vital to the health and welfare of many Kentuckians;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. In the event that the U.S. Army Corps of Engineers neglects its statutory responsibility, that the Natural Resources and Environmental Protection Cabinet is hereby directed to commence negotiations with the U.S. Army Corps of Engineers for the reopening and operation of locks 5-14 on the Kentucky River. These negotiations shall be subject to approval of the Governor and Secretary of the Finance and Administration Cabinet. These negotiations shall be completed as early as possible during the 1984-85 fiscal year.

Section 2. That the Natural Resources and Environmental Protection Cabinet is hereby directed to operate and perform routine maintenance on locks 5-14 as agreed to by the Corps and the Commonwealth as provided in Section 1 of this resolution. The operation and routine maintenance of locks 5-14 shall commence as early as possible during the 1984-85 fiscal year.

Section 3. To carry out the provisions of Section 1 of this resolution, there is appropriated out of the General Fund to the Natural Resources and Environmental Protection Cabinet the sum of $25,000 for the 1984-85 fiscal year.

Section 4. To carry out the provisions of Section 2 of this resolution, there is appropriated out of the General Fund to the Natural Resources and Environmental Protection Cabinet the sum of $150,000 for fiscal year 1984-85 and the sum of $150,000 for fiscal year 1985-86. Any amount of the appropriation remaining at the close of the 1984-85 fiscal year shall be carried forward into the 1985-86 fiscal year.

HJR 3, A JOINT RESOLUTION prohibiting the Commerce Cabinet from imposing boat launching ramp fees at Taylorsville Lake.

WHEREAS, first consideration should be given to the citizens of the Commonwealth; and

WHEREAS, no other Corps of Engineers' lake in the Commonwealth has imposed boat launching fees upon the citizens of the Commonwealth; and

WHEREAS, the Taylorsville Lake project has been constructed at the taxpayer's expense;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Commerce Cabinet shall not charge any boat launching ramp access fees at Taylorsville Lake nor shall it permit such fees to be imposed by any third party concessionaire.

Section 2. That free access to all boat ramps at Taylorsville Lake should be available to the citizens of the Commonwealth.

Section 3. That copies of this resolution be forwarded to the Governor, the Commerce Cabinet and the Corps of Engineers.

HCR 21, A CONCURRENT RESOLUTION urging the Congress to take action that will limit foreign steel imports.

WHEREAS, the American steel industry has engaged in extraordinary self-help efforts including the commitment of millions of dollars to modernization and the reduction of employment cost; and

WHEREAS, foreign steel imports now account for approximately twenty percent (20%) of the steel consumed in the United States; and

WHEREAS, the American steel and coal industries, and those particularly in Kentucky, are suffering from painfully high levels of unemployment which result in large measure from foreign steel imports; and

WHEREAS, most steel entering the United States is unfairly traded because it is dumped, subsidized or the beneficiary of targeted foreign government development assistance; and

WHEREAS, United States trade laws have been ineffective in stemming the tide of unfairly traded foreign steel; and

WHEREAS, unfair trade in steel is the single most serious threat to the survival of a healthy industry in Kentucky and in the United States; and

WHEREAS, the American steel industry produces industrial material which is essential to the United States economy and necessary to our national defense; and

WHEREAS, the steel industry is an important part of the Kentucky economy, providing employment for thousands of the Commonwealth's residents; and

WHEREAS, the American steel industry and Kentucky's coal mining industry are linked by an important and mutually beneficial customer-supplier relationship;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Commonwealth of Kentucky urges Congress to support the Fair Trade in Steel Act of 1983 which limits imports of foreign steel to not more than fifteen percent (15%) of American steel consumption for a period of at least five (5) years; and

Section 2. That a copy of this resolution be sent to each member of the Kentucky delegation to Congress, each member of the Congressional Steel Caucus, the presiding officers of each House of Congress, and the President of the United States.

Calendar

HB 314, HB 99, HB 32, and **HB 316** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative LeMaster moved the adoption of the following **HR 31:**

HR 31, A RESOLUTION honoring the University of Kentucky Cheerleading Squad.

WHEREAS, the Ford College Cheerleading National Championship Competition was held in Honolulu, Hawaii the week of January 9-13, 1984; and

WHEREAS, the Ford College Cheerleading National Championship is sponsored by the Universal Cheerleaders Association; and

WHEREAS, any university cheerleading squad may enter the national championship competition by submitting a video-taped three-minute routine which has been performed before a live football or basketball audience; and

WHEREAS, the competing teams are judged and narrowed down to eight finalists - four regional squad champions from the West, Mid-America, South and Northeast and four cheerleading squads at-large from across the nation; and

WHEREAS, the University of Kentucky Cheerleading Squad video-taped a routine presented during the halftime activities of the U.K./U of L basketball game; and

WHEREAS, the University of Kentucky Cheerleaders were selected as the regional champions from the South; and

WHEREAS, the Ford Motor Company generously paid all the expenses incurred for the U.K. squad to travel to Honolulu to join the national competition;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the members of the University of Kentucky Cheerleading Squad and Sponsor Lynn Williamson upon being selected to participate in the finals of the Ford College Cheerleading National Championship competition.

Section 2. That this honorable body commends Lynn Williamson and every member of the U.K. squad as exemplary representatives of the Commonwealth.

Section 3. That the House extends its best wishes to the University of Kentucky on the Honolulu event and directs the Clerk of the House to transmit a copy of this resolution to the University of Kentucky Cheerleading Squad.

HR 31 was adopted by voice vote.

Senate Message

Announcing passage of **HB 167.**

Orders of the Day (continued)

Representative LeMaster moved that consideration of **HB 200** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 176, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Amendment No. 1 to **HB 176.** Agreed.

Representative Little moved that **HB 176,** as amended, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 176, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 176,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 208, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 208.** Agreed.

Representative LeMaster moved that **HB 208,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 76-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Dunn, Endicott, Farrows, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Handy, Harper, Head, Hines, Holbrook, holloway, Johnson, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Long, Lundergan, Mann, McElroy, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Rapier, Rattliff, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 18-Brinkley, Burnette, Clarke, Donnermeyer, Fryman, Hancock, Heleringer, Lefevers, List, Maggard, McBee, McNutt, Meyer, Noland, Priddy, P. Richardson, Robinson, Turner.

HB 208, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 208,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 194, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Amendment No. 1 to **HB 194.** Agreed.

Representative Bruce moved the adoption of the Committee Amendment No. 2 to **HB 194.** Agreed.

Representative Bruce moved that **HB 194,** as amended, be passed.

On the roll call the vote was yeas 60-Allen, Arnold, Blandford, Blevins, Brinkley, Bronger, Bruce, Burnette, Caldwell, Clapp, P. Clark, Cline, Craddock, Curd, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Handy, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, Layman, Lefevers, Lile, Little, Lundergan, Maggard, McBee, McElroy, Morris, Noland, O'Brien, Overstreet, Petty, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 31-Barrows, Bendl, Bennett, Brown, Clarke, Cowan, Crupper, Cyrus, Deskins, Donnermeyer, Gedling, Gray, Hancock, Heleringer, Hines, T. Jones, Kenton, LeMaster, List, Long, Mann, McNutt, Meyer, Moberly, Moore, Nett, Noe, Pearman, Perkins, Rapier, Thomas.

HB 194, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 194**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 167** had been examined and found correctly enrolled. **HB 167** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-3:03 p.m.)

HB 167 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions, and Communications

Representative Moberly moved that the vote on **HB 126** be reconsidered.

On the roll call the vote was yeas 48-Arnold, Barrows, Bendl, Bennett, Brinkley, Bruce, Caldwell, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Gray, Hancock, Harper, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, List, Long, Lundergan, Maggard, McElroy, Meyer, Moberly, O'Brien, Pearman, Perkins, Petty, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Seum, F. Smith, Stumbo, Thomason, Van Horn, White, Worthington. Nays 17-Allen, Blevins, L. Clark, Ellington, Farrow, Ford, Foster, Fryman, Heleringer, Layman, Lefevers, Mann, McNutt, Noland, Todd, Turner, Yates.

The motion that the vote on **HB 126** be reconsidered was adopted.

Representative Moberly moved that **HB 126** be placed in Orders of the Day for January 27, 1984. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 460, by Representatives R. Jones, B. Richardson: AN ACT proposing to amend the Constitution of Kentucky relative to penitentiary prisoners.

HB 461, by Representatives Van Horn, Little, Stone, Cyrus, Deskins, and Brown: AN ACT relating to school buses.

HB 462, by Representative Van Horn: AN ACT relating to political activity of urban-county government employes.

HB 463, by Representatives Mann, Blevins, Endicott, Priddy, Bronger, Burnette, Moore, Maggard: AN ACT relating to optometry.

HB 464, by Representatives McNutt, Holbrook, Holloway, Richards, Stone, Brinkley, and Craddock: AN ACT relating to open records.

HB 465, by Representative Hines: AN ACT establishing Historic Preservation Commissions in cities.

HB 466, by Representative Johnson: AN ACT relating to workers' compensation.

HB 467, by Representative Layman: AN ACT relating to local government.

HB 468, by Representatives O'Brien, B. Smith, P. Clark, and Hancock: AN ACT relating to motor vehicles.

HB 469, by Representatives Donnermeyer and Mann: AN ACT relating to Alcoholic Beverage Control.

HB 470, by Representatives Cowan, Ellington, and Head: AN ACT relating to utilities in cities.

HB 471, by Representatives Holloway and Bennett: AN ACT relating to fire protection and declaring an emergency.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 346.**

Judiciary-Criminal: **SB 57, HB 433, HB 231, HB 415, HB 364, HB 384.**

Labor and Industry: **HB 434, HB 396.**

Judiciary-Civil: **HB 322, HB 369, HB 388, HB 420, HB 303.**

Banking and Insurance: **HB 359.**

State Government: **HB 410, HB 220, HR 9.**

Health and Welfare: **HB 256, HB 41, HB 421, HB 40.**

Motions, Petitions, and Communications (continued)

Representative Ellington moved that he be recorded as voting "yea" on **HB 208.** Agreed.

Representative T. Jones moved that he be recorded as voting "yea" on **HB 208.** Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 33;** Representative Bruce, **HB 33;** Representative Cyrus, **HR 21;** Representative Deskins, **HB 176;** Representative Farrow, **HB 433;** Representative Hines, **HB 200;** Representative Moore, **HB 33;** Representative Perkins, **HB 33;** Representative Todd, **HB 127, HB 189, HB 381.**

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions: Representative Riner, **HB 360, HB 97.**

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 200**, by Representative Heleringer:

Amend printed copy of **HB 200**, on page 2, below line 15, to add the following:

"Section 3. KRS 431.060 is amended to read as follows:

Offenses are either felonies, misdemeanors, or violations:

(1) Offenses punishable by [~~death~~] or confinement in the penitentiary, whether or not a fine or other penalty may also be assessed, are felonies.

(2) Offenses punishable by confinement other than in the penitentiary, whether or not a fine or other penalty may also be assessed are misdemeanors.

(3) Offenses punishable by a fine only or by any other penalty not cited herein, whether in combination with a fine or not, are violations.

Section 4. KRS 431.215 is amended to read as follows:

If the judgment imposes a sentence of [~~death or~~] confinement in the penitentiary, county jail or other institution, two certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten days after the execution.

Section 5. KRS 507.020 is amended to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a *Class A felony* [~~capital offense~~].

Section 6. KRS 509.040 is amended to read as follows:

(1) A person is guilty of kidnapping when he unlawfully restrains another person and when his intent is:

(a) To hold him for ransom or reward; or
(b) To accomplish or to advance the commission of a felony; or
(c) To inflict bodily injury or to terrorize the victim or another; or
(d) To interfere with the performance of a governmental or political function; or
(e) To use him as a shield or hostage.

(2) Kidnapping is a Class B felony when the victim is released alive and in a safe place prior to trial, except as provided in this section. Kidnapping is a Class A felony when the victim is released alive but the victim has suffered serious physical injury during the kidnapping, or as a result of not being released in a safe place, or as a result of being released in any circumstances which are intended, known or should have been known to cause or lead to serious physical injury, *or*[~~. Kidnapping is a capital offense~~] when the victim is not released alive or when the victim is released alive but subsequently dies as a result of:

(a) Serious physical injuries suffered during the kidnapping; or
(b) Not being released in a safe place; or
(c) Being released in any circumstances which are intended, known or should have been known to cause or lead to the victim's death.

Section 7. KRS 532.010 is amended to read as follows:

Felonies are classified, for the purpose of sentencing, into *four (4)* [~~five~~] categories:
(1) [~~Capital offenses;~~
~~(2)~~] Class A felonies;
(2)[~~(3)~~] Class B felonies;
(3)[~~(4)~~] Class C felonies; and
(4)[~~(5)~~] Class D Felonies.

Section 8. KRS 532.030 is amended to read as follows:

(1) [~~When a person is convicted of a capital offense he shall have his punishment fixed at death or imprisonment in accordance with KRS 532.035.~~
~~(2)~~] When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with KRS 532.060.

(2)[~~(3)~~] When a person is convicted of an offense other than a [~~capital offense or~~] Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or
(b) A fine authorized by KRS Chapter 534; or
(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

Section 9. KRS 543.040 is amended to read as follows:

When a person is convicted of an offense[~~, other than a capital offense,~~] the court, where authorized by KRS Chapter 533, may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

Section 10. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony[~~, other than a capital offense,~~] without first ordering a presentence investigation after conviction and giving due consideration to a written report of such investigation.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The sources of confidential information need not, however, be disclosed.

Section 11. KRS 533.010 is amended to read as follows:

(1) Any person who has been convicted of a crime [~~and who has not been sentenced to death~~] may be sentenced to probation or conditional discharge as provided in this chapter.

(2) Before imposition of a sentence of imprisonment the court shall consider the possibility of probation or conditional discharge. After due consideration of the nature and circumstances of the crime and the history, character and condition of the defendant, probation or conditional discharge should be granted unless the court is of the opinion that imprisonment is necessary for protection of the public because:

(a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime; or

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or

(c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.

Section 12. The following KRS Sections are repealed:

431.218 Date of execution of condemned -- Copy of mandate to proper officer.
431.220 Execution of death sentence.
431.240 Time of execution -- Governor to fix time in case of insanity, pregnancy or escape -- Transfer to forensic psychiatric facility in case of insanity.
431.250 Persons who may attend execution.
431.260 Superintendent's return on judgment.
431.270 Delivery or burial of body.
532.025 Presentence hearings -- Aggravating or mitigating circumstances -- Instructions to jury.
532.035 Sentence for capital offense.
532.075 Review of death sentence by Supreme Court."

Floor Amendment No. 2 to **HB 200**, by Representative Williams:

Amend printed copy of **HB 200**, on page 1, line 9, to delete the semicolon";"

and on page 1, line 10, to delete "*(c) Class A misdemeanor*"

Floor Amendment No. 1 to **HB 225**, by Representative Williams:

Amend printed copy of **HB 225**, above the enacting clause to add the following:

"WHEREAS, deceptive repair practices constitute a problem for consumers who frequently lack the expertise to determine whether a repair is necessary or the price estimate fair; and

WHEREAS, the General Assembly recognizes that repair estimates frequently and through no fault of the repairer do vary from the actual charges for repair due to concealed damage or other factors not apparent at the time of estimate; and

WHEREAS, the General Assembly recognizes that repair estimates are equally likely to be higher than the actual cost of repair, and that the General Assembly does not wish to impair the operations of legitimate business while still protecting the public against unscrupulous business practices;

NOW, THEREFORE,"

and on page 1, below line 19, to add the following:

"*(3) It shall be presumed that if the actual cost of a repair does not exceed the amount of the repair estimate by more than twenty-five percent (25%) that no violation of this section has occurred.*

(4) If the actual cost of a repair exceeds the amount of a repair estimate by more than twenty-five percent (25%) but less than fifty percent (50%) the matter is subject to determination at trial.

(5) It shall be presumed that if the actual cost of a repair exceeds the amount of the repair estimate by more than fifty percent (50%) that a violation of this section has occurred. This presumption may be rebutted by competent evidence."

and on page 1, line 5, following the word "*he*" to add "*knowingly and intentionally*"

Floor Amendment No. 1 to **HB 314**, by Representative Heleringer:

Amend printed copy of **HB 314**, on page 3, line 16, by deleting the word "*three*" and inserting in lieu thereof the word "*one*"; and

on page 3, line 17, by deleting the number "*($3,000)*" and inserting in lieu thereof "*($1,000)*".

The Speaker appointed the following members as a Committee to Wait Upon the Governor: Representatives Morris, Bruce, McElroy, L. Clark, and Gedling.

Recess

Representative LeMaster moved that the House recess until 7:45 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address the Joint Session.

The Honorable Steven Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative LeMaster moved that the House and Senate now resolve into Joint Session. Agreed.

The Speaker introduced the Honorable Steven Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, who assumed the Chair and called the Joint Session to order.

Joint Session

Representative LeMaster moved to dispense with a call of the roll. Agreed.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort her to the House chamber to address the Joint Session, appeared with the Governor.

The Honorable Steven Beshear introduced the Honorable Martha Layne Collins, Governor of the Commonwealth of Kentucky.

Governor Collins addressed the Joint Session of the General Assembly as follows:

Governor Martha Layne Collins
Budget Address
January 26, 1984

You and I have been entrusted with an opportunity to dramatically improve the future of our people.

What we do with this Budget--what we fail to do--will say much about what Kentucky becomes in the decades ahead. We will determine whether our children are able to live the kind of lives we want for them; we will determine the quality of schools they attend; the kinds of jobs they have--indeed whether they can find jobs here at home; we will determine the range of opportunities available to all Kentuckians.

We should feel honored. A challenge of this magnitude comes to elected officials perhaps only once in a generation. We begin the test tonight. Can we measure up to the challenge?

We can make this an historic session. Our children, our grandchildren could reflect on what we do here and be proud that we began a new era. But if we fail the test, they will look back in disappointment and say that once more the supposed leaders of the Commonwealth lacked the courage and vision to seize the moment.

The choice is ours.

I have made my decision. I am looking to Kentucky's future. I am confident you will too. These are not partisan issues before us. They are far too important for partisanship.

Certainly there will be room for debate on specifics. There is always room for discussion. But this is no time for obstructionism.

We have been chosen to lead. And we have heard the people of Kentucky speak clearly. They want a brighter future for our state.

They want better schools. You want them. I want them.

We will have them.

The budget I bring to you lays the foundation for improving our childrens' education, and opening up opportunities for all Kentuckians. It is a fair and equitable plan for the future. We share in what it demands; we share in the benefits it brings.

In presenting this budget tonight, I have met the deadline set by the 1982 Regular Session of the General Assembly. I am the first Governor to have to work under the restrictions of putting together a two year budget within the first 15 working days of the legislative session.

On your desks, you will see the *Executive Budget* recommendation for 1984-86. In addition to the two volume *Executive Budget*, you also have a *Budget in Brief*, which will give you an analysis of the major proposals in the biennial budget. You will also receive a document which outlines in detail my plan for education. Four volumes in all.

And you will find a draft appropriations bill available for your consideration in the weeks ahead.

So, we in the Executive Branch have complied with the Legislative mandate concerning the introduction of the budget. We have also complied with the Supreme Court decision and you will have an Appropriations Bill--and not a Joint Resolution--to consider. We have met the other statutory requirements for a budget reduction and a surplus expenditure plan.

It is now time to assess our situation.

The sober reality is that our state economy remains depressed. Three weeks ago when I addressed this body on the State of the Commonwealth, I had hoped I could be more optimistic today.

Less than two weeks ago, however, my Revenue Secretary informed me that he anticipated a reduction in revenue for the 1984-86 biennium. Immediately, I challenged the Revenue Cabinet to go back and scrutinize every figure to ensure accuracy.

Last week, they reaffirmed that, once again, for the sixth time in the past four years, revenue estimates were being revised downward--this time by over $100 million in the General Fund alone.

Our problems have been building for some time. For the better part of a decade, our state has been spending more annually than we have been taking in. That may seem puzzling since we are mandated by law to have a balanced budget. But we have balanced the budget through some extraordinary measures.

We're balanced today--in this fiscal year--because we've spent one-time monies. And, we've been tapping obscure surpluses accumulated over many years. We've also been cancelling maintenance projects and transferring monies in a wholesale fashion.

These patchwork methods, the shortfalls, and the news that another $100 million shortfall was imminent meant that further cuts could not be made without reducing needed services to our people.

This forced me to reassess the budget, and to face some extremely difficult decisions as I considered my responsibilities to all Kentuckians.

The *Executive Budget* I recommend is bold in its approach to critical public services. It squarely addresses the foremost responsibilities of our State Government. It continues vital services. It sets in motion a program of educational enrichment that is both basic - and innovative. It focuses on our Commonwealth's greatest asset for major development - our young people.

The budget I propose with provide a level of support for education unmatched in the history of the Commonwealth. It will provide a range of incentives for change, and for excellence. It will demand a degree of educational accountability *we should never have abandoned.*

But improving Education is not all we need to do in this budget. Education will take the most money. It always has-- and it always will. That's an investment we must make.

Still, we have other areas that demand attention. Some of them are tough--like Corrections and Jails. For others a little money, given a sharp focus and clear direction can go a long way.

My *Executive Budget* is largely a continuation budget. It will be very tight for most agencies; nearly everyone will have to manage with the same dollars they now receive.

There are some things, however, we can't postpone or hold the line on. Criminal Justice is one of them.

The plain facts are these. We have more criminals locked up today in Kentucky than our system can handle.

We've been under a Federal Court Consent Decree since 1980. Our Women's Prison is also under Federal court order. Local jails throughout the state are overcrowded with felons.

All but one of our major prisons was built a half century or more ago. Our maximum security institution dates from the 19th century. The rules of the game have changed since these institutions were constructed--and we must now pay for it.

It's not very palatable, I know. We have other things most of use would rather do. But, we have no choice but to address the issue squarely.

The Corrections Cabinet estimates that by the end of the new biennium we will have over 1,000 more convicted felons in our corrections system than we do today.

We can't put any more at Eddyville and LaGrange. The Courts have made that clear.

We will not put any more at Northpoint. And I have no intention of putting any at Waverly Hills--or in any other populous neighborhood.

We need a new prison. There is no doubt about it. The *Executive Budget* includes $25 million for a medium security prison for 500-600 inmates.

I've looked at ways of not building that prison--as have many of you. But I see no alternative.

I have also recommended the first major construction program in nearly 50 years at PeeWee Valley, and have called for continued full compliance with the Federal Consent Decree.

Many of you have been hearing from your County Judge/Executives, Magistrates, Commissioners, Jailers, and concerned citizens about a related matter--the County Jails.

Many jails were in far worse shape than the state prisons until just recently. Over 20 of the worst jails have been shut down and many others need immediate attention.

It is not feasible for the state to take over these local jails.

Still, state government has historically shared much of the financial responsibility for them. In many counties, the state provides most of the money for the jail.

State government's oversight responsibilities and financial subsidy of local jails was strengthened considerably by this General Assembly during the 1982 Session.

The *Executive Budget* before you builds upon that record. I am working on a program that bolsters the existing allocation formula for county jails--and makes it more fair to poorer counties.

I also intend to work with you on a legislative package to consolidate in one agency the state's responsibility for dealing with the county jail problem.

The *Executive Budget* includes $16 million per year for this effort--an increase from the current $12 million allocation.

The program is consistent with recommendations of the Jail Study Committee. It should help open some jails that are closed, and provide more security, more safety,a nd better conditions throughout the counties. It should also help tremendously on the liability question.

I have also provided for full funding of the Local Government Economic Assistance Fund in the new biennium. This revenue sharing program can continue to assist local governments in managing their own affairs.

This same human desire--to manage their own way--their own lives--is at the heart of my recommendation for a better human service program in the next two years.

Basic human dignity requires that we provide a reliable program for our elderly who are functionally disabled and in danger of institutionalization. Entering an institution is costly--and can be crushing to the individual.

My *Executive Budget* recommendation includes a cost-effective program of in-home care for the elderly. This will offer important services they may be incapable of providing for themselves, even though they are otherwise independent.

I also support a similar program for expanded in-home medical services for the elderly. This program will be coordinated with three additional adult day care centers that allow the elderly to remain in the community.

I have endorsed in this budget a long overdue expansion of our mental health effort. Over the biennium, an additional 10 transitional homes will be available to assist persons released from state mental hospitals. This will provide for a transitional residential program in each of the comprehensive care regions by fiscal year 1986.

We will be completing the construction of the new Central State Hospital in this biennium, and beginning to service the debt on that facility for the first time.

But our human services emphasis remains on avoiding institutionalization when possible. In this regard, the Commonwealth has sought and received a waiver from the federal government in order to provide Alternative Intermediate Services for Mentally Retarded. This service provides community based treatment to mentally retarded or developmentally disabled people.

We were unable to fund the Youthful Offender Act or the Decriminalization of Public Intoxication Act previously enacted and deferred in implementation by the General Assembly. Nevertheless, the *Executive Budget* includes a well-targeted start on addressing youth and alcohol problems.

For the new biennium, I have recommended funding for the creation of 13 youth diversion homes that will help fill a void in juvenile treatment services.

Each home will be operated by a married couple, supervised by professional juvenile specialists who can formulate a specific treatment plan for every child.

In addition, I have recommended funding for a new alcohol and drug abuse program for juveniles. Reliable studies have indicated that between 40 and 60 percent of juveniles in treatment programs have significant substance abuse problems. These young people need our help today.

There is one more child-help program we should single out for immediate attention. I have included adequate funding to modernize and update the child abuse registry maintained by Human Resources. At present, over 30,000 reports of child abuse are received annually. The registry cannot now handle such a volume and their statistics are often outdated and of limited use.

Two other areas are worthy of mention as they are critical to the efficient operation of state government. One is our personnel policy. I have recommended that five percent salary increases be included for all personnel in state agencies, and elementary and secondary education. This should enable us to fairly compensate our dedicated employees while we reassess a proper system of incentives, rewards, and performance-based pay in the coming year.

We also have an obligation to preserve and maintain the billion dollar physical plant the state has invested in over the years. The time is not right for major new construction in state government. I recommend that we direct funding toward maintenance, repair and renovation of existing facilities. It is my proposal that the capital construction fund and equipment purchase recommendations take that direction.

These are among the measures I propose to meet Kentucky's needs.

But the most pressing need of the Commonwealth, the one that can vastly improve the future of our people, is better education. Without quality schools, our state simply cannot provide the opportunities Kentuckians deserve.

We are more concerned about education today than at any time in our recent history. One reason for that is the valuable public service the state's media have performed in focusing attention on this critical problem. They are to be commended.

I should also note that my administration has profited from observing the educational reforms that have been developed in other states. We have benefited from the ideas of the various groups which have evolved to address educational reform here in Kentucky. In particular, reports by the Chamber of Commerce Study Group and the Prichard Committee have been valuable resources. A variety of useful suggestions have been made by the State board of Education and the Superintendent of Public Instruction.

I have considered these ideas. And based on my own understanding of our schools and their problems, and my own commitment to better education, I have developed a comprehensive proposal that can turn our schools around.

We share with parents, educators, and the public a willingness to support a sound educational system. Our expectations can be realized if we work together, and if we insist on excellence and accountability.

My plan for education requires a commitment to move forward--and to move forward now. Together we can send a powerful message to the people of this state that we are committed to substantial improvement in our schools. Results are what count--simply spending more money is not the answer.

The educational package I present to you is one that stresses achievement, demands competence, and promotes the skills essential to success. It requires accountability of our teachers and administrators. It combines elements that can bring solid improvements over the long-term as well as those than can help our schools today.

First, I propose a wide range of reforms to improve educational administration.

Most of these items involve no cost or minimal cost; however, they are an essential component of my plan. Without this kind of basic reform, new money will simply not bring the improvement we need. In fact, the approach "shotgunning" huge amounts of money, through the traditional allocation channels, is part of our problem. I seek fundamental change.

I support a Constitutional Amendment to make the position of Superintendent of Public Instruction an appointive office.

I support the repeal of the tenure law for school administrators.

In our local school districts, board of education members will be required to have a high school diploma.

Each local school district must publish an annual report in the newspaper of widest circulation in the community. This report would address the district's accomplishments, including retention rates, student performance on standardized tests and goals for the coming year.

I suggest the following reforms for the State Board of Education:

I will request that the State Board assist school districts in developing a performance evaluation system for both teachers and administrators.

My plan suggests that the Board be required to review extracurricular activities and formulate regulations to assure that academic pursuits are the number one priority in the local schools.

The Board would also review teacher certification requirements and teacher education programs.

It is proposed that the state board establish a program to certify part-time instructors to teach high school courses in areas where teacher shortages exists.

The Board should also require prospective school principals to successfully complete an internship in order to receive certification.

The second major area of my plan addresses teaching essential skills to students.

In my education plan all students would be required to master a common set of basic academic and learning skills as they progress through the various levels of the school system.

I also recommend funding for essential skill remediation for those students who fall behind. I am proposing General Fund support of $25 million for this program in 1986, to be supplemented by federal funds. this remediation will be the key to making our comprehensive testing program effective. The remedial program includes grades one through ten but will emphasize grades one through three.

I propose a new writing program for students in grades seven through twelve. My plan provides $12 million for teaching assistants who would help English teachers handle the increased work this program will require.

To ensure that our commitment to educational achievement includes a sound beginning for our students, I am proposing that we spend $19 million for all eligible children statewide to be enrolled in the kindergarten program before entering the first grade in the 1986-87 school year. I am also proposing that we provide the funding to reduce the student-teacher ratio in kindergarten from 25 to 1 down to 20 to 1

The third major area which my education plan addresses is upgrading the quality of school instruction.

The current comprehensive system for school teachers in Kentucky simply does not provide adequate financial incentives for good teachers. I propose instituting a Career Ladder approach to the evaluation and compensation of school teachers. A Career Ladder is useful not only for creating financial incentives but also provides an important method of publicly acknowledging our best teachers. Realizing that the task for designing a Career Ladder is a sensitive matter, I am proposing that a Governor's Commission be created to start on July 1 of this year to draw up the specific plan for the Career Ladder in a careful and prudent fashion. I am proposing that the Career Ladder be implemented for the 1985-86 school year.

I am recommending $40 million for my Career Ladder program--the largest single new budget item proposed. It is important to understand that this program will be in addition to my recommended 5 percent across-the-board pay increases for teachers, which will total over $90 million in new General Fund money.

We must reward our best teachers. We cannot afford to adhere to the ways of the past and provide everyone with large salary increases simply because they are on the payroll. The Career Ladder approach is a key to improved teaching in our schools.

Another critical element for improving the quality of instruction will be a new teacher testing and internship program. This program will require beginning teachers to pass a comprehensive examination and successfully complete an internship before being certified to teach in the state. New teachers will be given the support and guidance they need to successfully begin their careers. Parents and the public will know that new teachers are qualified and suited for the teaching profession.

The fourth critical area of my education plan addresses improving the effectiveness and accountability of our schools.

Accountability must become the watchword for Kentucky education. Funding should be tied to measurable performance. Performance, in turn, must be linked to academic standards. I am proposing a number of items to strengthen the state's efforts to ensure that school districts meet minimum academic standards.

I recommend a process whereby the State Board of Education can place in "academic receivership" a local school district which fails to meet minimum academic standards. This would be comparable to the Commonwealth, through its State/Local Finance Officer, taking over the financial operations of a county when county officials fails to meet certain minimum standards. Before taking over a district, the state would first work with that district on a plan to help overcome its deficiencies.

My budget recommends that we greatly expand the program of technical assistance which the Department of Education make available to low performing school districts. If we expect those districts to be more accountable, we must furnish the Department additional support to help the local districts help themselves.

I propose also a substantial increase in the Power Equalization Program to expand educational opportunities statewide. I am recommending increased General Fund support of $43 million over the biennium. This program currently equalizes the ad valorem tax rate of approximately 7 cents. The massive amount of new funding I am recommending will equalize slightly more than 9 cents in 1985 and about 11.5 cents in 1986.

The fifth major section of my education plan addresses improving the Classroom Learning Environment.

I propose to fully fund the free textbook program which provides all Kentucky students with the basic educational tools.

My plan recommends $2.5 million to implement a classroom computer program. It will be developed this year and implemented during the 1985-86 school year. The program will provide funds for the acquisition of hardware and software and training for teachers. This will be a matching program for local school districts with the state providing 25 percent of the cost.

The final major emphasis of my education plan is the upgrading of local school buildings.

I am proposing a $10 million increase in the School Building Authority. This additional funding for debt service for the Authority, when matched with an equal sum by local school districts, will result in over $160 million worth of actual school construction at the local level. This major commitment of financial support will serve to substantially reduce the current backlog of local school construction needs. I am specifically proposing to allocate this money through the School Building Authority rather than the capital outlay component of the Minimum Foundation Program. This will ensure that these funds reach the areas of greatest need.

The Executive recommendation for Higher Education, although not included in my education reform package, is noteworthy in three aspects--First, it supports the formula funding mechanism developed by the Higher Education community to ensure proper recognition of the common and unique roles of our individual universities. Second, the Desegregation Plan will be fully implemented statewide in accordance with the Civil Rights laws of the land. And third, the universities will receive across-the-board inflationary increases we were unable to give other state agencies in this tight budget.

Having outlined the major features of my education package, I believe it is important to understand that there are no "quick fixes" for such long-standing and pervasive problems. We need sustained efforts over time to ensure long-term success.

But I assure you...this plan is a necessary beginning.

The new money, the increased accountability of teachers, and our academic plans mean we are changing the direction of Kentucky education. We are looking at education in new ways.

With this budget, you can go home proudly and tell the people you represent that their children will be going to better schools. You can tell them we have broken out of the old spending patterns. We are seeking that money goes for things that make a difference in the classroom.

In short, we are ensuring that Kentuckians get a far better return on their education dollars.

We are building toward excellence. We are seeing that our young people have a better chance of mastering the basic skills that are the foundations of all further learning. And through these improvements, we are ensuring that Kentucky can keep pace with the rest of America in providing new opportunities and jobs for our people.

What will it take to meet the responsibilities we share? After four years of cutbacks and recession...With a depressed state economy still at hand...And with our responsibilities being what they are--we must respond.

A pattern of shortfalls and cutbacks indicates that our revenue structure is substantially out of balance.

That structure is inadequate. It needs reform. And it needs reform now.

Experts on Kentucky's revenue codes have concluded that Kentucky tax laws and rate structures have not been adjusted to reflect inflation and other economic changes over the past 30 years.

Too often, Kentucky lags behind our nation and our sister states because we have not addressed the issue of sufficient revenues to support our goals and needs.

Tonight, we are all challenged to lead. I am prepared to meet that challenge.

I have asked Secretary Gillis and the Revenue Cabinet to inventory and assess the merits and problems in our present revenue structure. I share their conclusions with you tonight.

Kentucky is in need of tax reform that is fair, equitable, and consistent with the ability to pay. We must have a reform program to fund solid educational improvement, to support responsible advances in human services, and to balance the budget. This will require some $98 million in new revenues for fiscal year 1985 and $226 million in fiscal year 1986.

Specifically, I ask you to consider the following options:

First, Individual Income Tax Reform. I recommend that the standard deduction be raised to $1,000 per taxpayer from the present $650. This will eliminate 100,000 low income taxpayers from paying Kentucky individual income tax. To compensate, two rate categories will need to be added to the current rate structure which taxes all income over $8,000 at 6 percent. The proposed structure would tax income between $15,000 and $50,000 at 7 percent and all income over $50,000 at 8 percent. Assuming an effective date of January 1 of 1985, this reform will generate $43 million in new revenue in fiscal 1985 and $109 million in fiscal 1986. This would be the first change in the rate structure in 34 years.

Second, I propose a change in the Corporation License Tax. I propose that this tax, which is imposed on corporations for the privilege of doing business in Kentucky, be raised effective January 1, 1984, to a rate of $1.75 per $1,000 of capital employed. This change will generate $12 million in fiscal year 1985 and $27 million in fiscal year 1986. The change will be the first time the rate has been increased since 1926.

Third, I propose a Sales Tax on Services Not Previously Taxed in Kentucky. I suggest that the existing 5 percent sales and use tax be extended to services previously exempted. There will be no increase in the sales tax rate. Services which should be included for the first time are repair and installation of tangible personal property, the lease and rental of tangible personal property, laundry, dry cleaning, television cable service, computer and data processing services, and miscellaneous business services. With an effective date of December 1, 1984, the extension of the sales tax to these services will generate $43 million in fiscal year 1985 and $90 million in fiscal 1986.

A critical part of my revenue policy is the repeal of the sunset provision regarding the federal accelerated cost recovery system. This repeal will allow the Commonwealth to retain $186 million in the state's corporate tax base over the biennium.

The administration also proposed keeping all coal severance tax receipts in the General Fund, rather than transferring over the biennium approximately $92 million to the Road Fund.

These are not the only measures that might be considered. We must be open to all options. But again, we need, at a minimum, $98 million more in fiscal year 1985 and $226 million more in fiscal year 1986 to enact the responsible budget I have set before you. I count on your hard work, your dedication, and the voice of the public to assist us in carrying out these bold initatives.

The package I have recommended to you includes needed improvements in human services, a continuation of the sound fiscal policies mandated by our state constitution, and the most comprehensive educational improvement program in memory. Yet, the revenue measures I propose are reasonable, even conservative. The fact is the budget that I have recommended, even including the revenue reform and tax package, totals some $34 million less than you approved for the current year in the 1982 session.

Yet, as I have outlined, this budget can dramatically improve the future of our people.

Some will fail to grasp the scope of the challenge before us. They will not see that we deal with far more than a question of the moment. They will reduce all that faces us to whether or not we will raise taxes.

But let me assure you, that is not the issue.

The issue is whether we will meet the needs of our people.

The issue is whether we have the vision to see that improved schools are necessary to provide the jobs and other opportunities our people want and need.

The issue is whether we have the courage to do what is right for Kentucky.

Representative LeMaster moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns, it do so until 10:00 a.m., Friday, January 27, 1984. Agreed.

Recess

Representative LeMaster moved that the House recess until 9:30 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative LeMaster moved that the rules be suspended to allow Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 472, by Representatives Allen, Turner, Holloway, Stone, Lefevers, Todd, and Guenthner: AN ACT relating to criminal trial proceedings.

HB 473, by Representatives Gray and Noland: AN ACT relating to deductions from wages of employes and to interest on monetary awards.

HB 474, by Representatives LeMaster, B. Richardson, Dunn, Donnermeyer, and Blandford: AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 475, by Representatives B. Richardson, Blandford, Donnermeyer, Dunn, LeMaster, Clarke, Holloway, Turner, and Allen: AN ACT making appropriations for the operations, maintenance, support and functioning of the legislative branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

The following Floor Amendment No. 2 to **HB 113** was filed by Representative Meyer:

Amend printed copy of **HB 113,** on page 7, after line 16, by adding:

"Section 7. KRS 280.990 is amended to read as follows:

(1) [~~Any person who violates any of the provisions of KRS 280.010 to 280.110 or any of the rules, regulations or orders of the bureau of highways made thereunder shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) for each day that the violation occurs.~~

~~(2) Any person who violates any of the provisions of KRS 280.120 or 280.130 shall be fined not less than one hundred dollars ($100) for each day that he violation continues, and for the third conviction the charter shall be revoked.~~

~~(3) Any person who violates any of the provisions of KRS 280.140 or 280.150 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000). In addition, any such violation by a consolidated corporation of the type mentioned in KRS 280.140 shall be cause for the forfeiture of all its rights, powers, privileges, immunities and franchises, and in case of such violation the governor or attorney general may institute and prosecute the proper judicial proceedings to effect such forfeiture.~~

~~(4) Any person who violates any of the provisions of subsection (3) of KRS 280.190 shall forfeit fifteen dollars ($15.00) for each offense, to be recovered by the owner of the ferry whose rights were infringed by the violation.~~

~~(5) Any person who violates any of the provisions of subsection (4) of KRS 280.190 shall for each offense be fined not less than sixteen dollars ($16.00) nor more than twenty-five dollars ($25.00).~~

~~(6)~~] Any person who violates any of the provisions of subsection (3) of KRS 280.250 or any of the provisions of KRS 280.260 shall, for the first offense, forfeit twenty-five dollars ($25.00) to the person aggrieved, and shall, for every subsequent offense, forfeit one hundred dollars ($100) to the person aggrieved, but the person aggrieved shall not recover the forfeiture after a prosecution has been instituted under subsection (7) of this section. The forfeiture may be recovered by the person aggrieved by ordinary action in any court having jurisdiction to render judgment for the sum claimed to be forfeited, and the judgment may be enforced by execution against the property or against the person, at the election of the plaintiff.

(2)[~~(7)~~] Any person who violates any of the provisions of subsection (3) of KRS 280.250 or any of the provisions of KRS 280.260 shall be liable to a fine of fifty dollars ($50.00) for the first offense and one hundred dollars ($100) for each subsequent offense, but no conviction shall be had under this subsection in any case where the person aggrieved has sued for and recovered the forfeiture prescribed in subsection (6) of this section.

(3)[~~(8)~~] Any person who violates any of the provisions of KRS 280.270 shall be fined twenty dollars ($20.00) for each day that the violation continues.

(4)[~~(9)~~] Any person who violates any of the provisions of KRS 280.280 shall be fined not less than five dollars ($5.00) nor more than ten dollars ($10.00) for each day that the violation continues.

[~~(10) Any person who violates any of the provisions of KRS 280.320 or 280.330 shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00) for each offense.~~]

and on page 9, after line 14, by adding:

"KRS 180.320 Persons crossing toll bridges and ferries must pay toll.

KRS 180.330 Collectors of tolls to have power of peace officers -- Limitations.

KRS 280.320 Failure to pay toll -- School district to pay toll for children and buses.

KRS 280.310 Powers of corporations operating bridge in Kentucky.

KRS 280.330 Parking on toll bridge forbidden."

on page 7, line 17, after "SECTION" by adding "8" and deleting "7".

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, January 27, 1984.

The House adjourned by voice vote.

FRIDAY, JANUARY 27, 1984

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Andrew E. Newcomer, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Reinhardt.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 26, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 11, SB 15, SB 58, SB 121, HB 5, HB 12, HB 13, HB 120, HB 145, HB 276,** and **HCR 38.**

Introduction of Bills and Resolutions

HB 476, by Representative Van Horn: AN ACT relating to blood banks.

HB 477, by Representative Bennett: AN ACT relating to promoting, opposing or acting in reference to legislation.

HB 478, by Representatives Cowan, Holbrook, Nett, Mann, and Blevins: AN ACT relating to crimes and punishments.

HB 479, by Representatives B. Richardson, LeMaster, Kenton, Blandford, Dunn, and Donnermeyer: AN ACT relating to the William G. Kenton Center for Governmental and Political Studies and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 474, HB 475.**

Business Organizations and Professions: **HB 463, HB 469.**

Cities: **HB 465, HB 467, HB 462.**

Counties and Special Districts: **HB 471.**

Energy: **HB 470.**

Judicial-Criminal: **HB 472.**

Labor and Industry: **HB 466, HB 473.**

State Government: **HB 457, HB 464.**

Transportation: **HB 468, HB 461.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 362, HB 400.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Counties and Special Districts: **HB 118.**

Report of Committees

The Committee on Rules reported **HB 99, HB 314, HB 316, HB 243,** and **HB 241** have been posted for passage in Orders of the Day, January 31, 1984.

The Committee on Rules reported **HB 25** has been recommitted to the Committee on Natural Resources and Environment.

Calendar

HCR 21, HJR 3, HB 67, HB 80, HB 153, HB 57, HB 214, HB 215, HB 333, HB 226, HB 282, HB 345, HB 52, HB 53, HB 71, HB 177, HB 210, HB 270, and **HJR 1,** and **HJR 2** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Cyrus moved that **HB 30** be recommitted to the Committee on Transportation. Agreed.

HB 200, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Floor Amendment No. 2 to **HB 200.** Agreed.

Representative Williams moved that **HB 200,** as amended, be passed.

Representative Heleringer moved the adoption of the Floor Amendment No. 1 to **HB 200.**

Representative T. Jones moved that Floor Amendment No. 1 to **HB 200** be laid on the Clerk's desk. Rejected.

The motion that Floor Amendment No. 1 to **HB 200** be adopted was rejected.

On the roll call the vote was yeas 84-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 11-Allen, Barrows, Clarke, Freibert, R. Jones, T. Jones, Mann, Moberly, Noe, Overstreet, Robinson.

HB 200, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 200,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Floor Amendment No. 1 to **HB 113.** Agreed.

Representative Mann moved the adoption of the Floor Amendment No. 2 to **HB 113.** Agreed.

Representative Craddock moved that **HB 113,** as amended, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 113, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 113,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 276, HB 5, HB 12, HB 13, HB 120,** and **HB 145** had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Order delivered to the Senate. (Time - 10:35 a.m.)

HB 276, HB 5, HB 12, HB 13, HB 120, and **HB 145** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 286 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **HB 286** be passed.

On the roll call the vote was yeas 53-Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Burch, Clapp, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Foster, Gedling, Gray, Hancock, Handy, Harper, Hines, R. Jones, T. Jones, Kenton, LeMaster, Little, Long, Lundergan, Maggard, Mann, McBee, Moberly, Nett, Noe, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, B. Smith, F. Smith, Stone, Thomas, Thomason, Williams, Yates. Nays 36-Allen, Arnold, Blevins, Brown, Bruce, Caldwell, Dawahare, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Heleringer, Holbrook, Holloway, Johnson, Layman, Lefevers, Lile, List, McElroy, McNutt, Meyer, Moore, Morris, Noland, Overstreet, Patrick, Pearman, Robinson, Todd, Turner, Van Horn, White, Worthington.

HB 286 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 286** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 301 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 301** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 6-Brown, Layman, Meyer, Moore, Patrick, Robinson.

HB 301 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 301** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 229 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 229** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 229 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 229** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that a call of the roll be taken to show co-sponsors of **HB 479.** Agreed.

The following members requested their names be added as Co-Sponsors of **HB 479:** Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomason, Turner, White, Williams, Worthington, Yates.

Representative LeMaster moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Kenton moved the adoption of the following **HR 39:**

HR 39, A RESOLUTION commending and recognizing Nancy Farrell for her selection as State Art Educator of the Year.

WHEREAS, Nancy Farrell has dedicated her career to the art education of the young people of Fayette County; and

WHEREAS, this outstanding and dedicated teacher now has been recognized by her peers for her innovative and challenging efforts to bring art appreciation and skills development to her pupils; and

WHEREAS, Mrs. Farrell maintains the unique ability to draw from her students their best effort and the development of their own ideas and accomplishments; and

WHEREAS, an educator of the talent and ability of a Nancy Farrell deserves so fully the recognition and acclaim of all Kentuckians who appreciate high ability and career dedication;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Nancy Farrell be and she is hereby commended, honored and recognized for her selection as State Art Educator of the Year by the Kentucky Art Education Association.

Section 2. That a copy of this resolution be dispatched to Nancy Farrell.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HR 39 was adopted and the title agreed to.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 480, by Representative Patrick: AN ACT proposing to amend the Kentucky Constitution relating to referendum.

HB 481, by Representatives LeMaster and McBee: AN ACT relating to the crime victims' compensation board.

HB 482, by Representatives Holloway, Bennett, Priddy, Yates, O'Brien, Heleringer, and Bronger: AN ACT relating to fire protection districts.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 309, HB 320.**

Cities: **HB 324, HB 411, SB 39, HB 142, HB 245, HB 296, HB 326, HB 358,** and **HB 374.**

Business Organizations and Professions: **HB 463, HB 378.**

State Government: **HB 106, HB 107, HB 108, HB 110.**

Motions, Petitions and Communications (Continued)

Representative Burnette moved that **HB 232** be withdrawn. Agreed.

Representative Burch moved that **HB 187** be taken from the Clerk's desk. Rejected.

Representative Maggard moved that he be recorded as voting "yea" on **HR 39**. Agreed.

Representative Morris moved that he be recorded as changing his vote from "nay" to "yea" on **HB 286**. Agreed.

Representative Bruce moved that he be recorded as changing his vote from "nay" to "yea" on **HB 286**. Agreed.

Representative T. Jones moved that he be recorded as voting "yea" on **HB 208**. Agreed.

Representative Bennett moved that the rules be suspended to allow a call of the roll to show co-sponsors of **HB 477**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HB 477**: Barrows, Bendl, Bronger, P. Clark, Cyrus, Guenthner, Stone, Van Horn, Williams, Yates.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 67**, by Representative Dawahare:

Amend printed copy of **HB 67** on page 12, after line 11, by adding:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 287.050, if a bank holding company which controls at least one bank acquires a bank in a county, the commissioner of the department of banking and securities shall approve the organization of a new bank in the county upon receipt of a copy of the filing of the articles of incorporation and approval of the financial standing, moral character and capability of each of the incorporators."

Floor Amendment No. 1 to **HB 210**, by Representative Mann:

Amend printed copy of **HB 210** on page 1, line 11, after the word "*certified*" by deleting the phrase "*record of the proceedings from which such order was issued*" and inserting in lieu thereof the phrase "*copy of the order*"; and

On page 1, line 16, after the word "*proceeding.*" by adding the following language "*Matters at issue shall be heard by such court as upon an original proceeding.*"; and

On page 2, line 7, after the word "*certified*" by deleting the phrase "*record of the proceedings from which such order was issued*" and inserting in lieu thereof the phrase "*copy of the order*"; and

On page 2, line 12, after the word "*ceeding.*" by adding the following language "*Matters at issue shall be heard by such court as upon an original proceeding*"; and

On page 2, line 24, by deleting line 24 in its entirety and deleting the word "*issued*" on line 25 and inserting in lieu thereof the phrase "*copy of the order*"; and

On page 3, line 2, after the word "*proceeding.*" by adding the following language "*Matters at issue shall be heard by such court as upon an original proceeding.*"

Floor Amendment No. 2 to **HB 350**, by Representative Nett:

Amend printed copy of Committee Substitute to **HB 350** on page 10, line 26, after "6." by inserting the following: "A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

As used in Sections 7 to 16 of this Act, "political party" means each political party that cast ten percent (10%) or more of the vote for governor in the preceding election, or has a registration equal to ten percent (10%) or more of the total registered voters in the Commonwealth.

SECTION 7. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) On the regular primary election day, in accordance with KRS 118.025 in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections.

SECTION 8. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

To qualify to vote in a presidential preference primary in the Commonwealth a voter must register to vote in the same manner as prescribed in KRS Chapter 116. A voter shall vote only in the presidential preference primary of the political party for which he has declared a preference, as required by KRS 116.055.

SECTION 9. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

The state board of elections shall convene in Frankfort ninety (90) days before the date fixed by law for the holding of primary elections. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those generally advocated and nationally recognized as candidates of the political parties for the office of President of the United States. Immediately upon completion of this requirement, the board shall transmit a list of all such nominees selected to the secretary of state and shall also release the list to the news media.

SECTION 10. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) Any person seeking the endorsement by a political party for the office of President of the United States who has not been nominated by the state board of elections, or any group organized in this state on behalf of, and with the consent of, such person, may file with the secretary of state certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in this Commonwealth and are affiliated, by such registration, with the same political party as the candidate for whom petitions are filed.

(2) Such petitions shall be filed by the petitioners with the secretary of state no later than ninety (90) days before the date fixed by law for the holding of the primary election.

(3) The petitions must state:

(a) The name of the candidate for nomination and the party of which he is a member;

(b) The name and address of the chairman of the group circulating such petition.

(4) The secretary of state shall forthwith determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed said petitions.

SECTION 11. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall forthwith contact each person who has been nominated by the state

board of elections or by petition and notify him in writing by certified mail with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party, provided that he:

(a) Deposits with the secretary of state the sum required by Section 12 of this Act; and

(b) Forwards to the secretary of state a notice of candidacy form to be supplied by the secretary of state along with the written notification required by this section.

(2) Failure of candidate to deposit the fee required by KRS 118.610 and to execute the notice of candidacy within fifteen (15) days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary.

SECTION 12. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) Before any candidate's name is placed upon the official ballot by the secretary of state for a presidential preference primary in the Commonwealth the candidate must deposit with the secretary of state the sum of two (2) hundred and fifty dollars ($250), which shall be refunded to the candidate by the secretary of state if the candidate receives three percent (3%) or more of the total vote cast in the presidential preference primary of his political party.

(2) If the candidate fails to receive three percent (3%) or more of the total popular vote cast in the presidential preference primary of his party, the two hundred and fifty dollars ($250) deposit shall escheat to the Commonwealth and be placed in a special trust and agency fund to be used by the secretary of state to defray election expenses.

SECTION 13. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall place the names of all candidates who have been nominated by the state board of elections or by petition and who satisfy the requirements of Sections 11 and 12 of this Act on the official presidential preference primary ballot of their respective political parties. The secretary of state shall additionally place on the ballot of each political party a ballot slot for voters to cast an "uncommitted" vote. This vote shall be entitled to the same proportionate representation as a candidate under Section 15 of this Act, but delegates representing these voters shall not be bound by the first ballot requirement of Section 14 of this Act.

(2) If no presidential candidates nominated by the board or by petition meet the requirements of KRS 118.600 and 118.610, then no presidential preference primary shall be held in the Commonwealth.

SECTION 14. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

Upon completion of the official canvass of the results of the primary by the state board of elections, the secretary of state shall certify to the state chairman of each political party participating in the presidential preference primary the following:

(1) The names of the candidates entitled to delegate votes under provisions of Section 15 of this Act;

(2) The total vote received by each;

(3) A declaration that the results of the presidential preference primary, in accordance with the division of votes reflected by the official canvass, shall be the official vote cast by each political party at its national convention, on the first ballot only, and shall be designated by Sections 6 to 16 of this Act as an automatic vote, expressing the will of the people of the Commonwealth of Kentucky; and

(4) After the vote on the first ballot by the political party at its national convention, as required by this section, all responsibility under Sections 6 to 16 of this Act shall terminate and further balloting shall be the prerogative of the political parties as might be prescribed by the rules of such political parties.

SECTION 15. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS

FOLLOWS:

(1) The political parties in distributing authorized delegate votes among party candidates shall select one of the following methods of distribution:

(a) The candidates receiving the highests number of votes, provided each candidate receives at least fifteen percent (15%) of the total vote cast by his political party, shall be awarded a pro rata portion of the authorized delegate vote of his political party as follows:

1. The total vote received by the candidates qualifying under the provisions of Sections 6 to 16 of this Act and subsections herein shall, when combined, be equal to one hundred percent (100%);

2. Each such candidate shall share in the total percentage in direct proportion to the total vote received by him, mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%);

3. Each political party shall appropriate such percentage, as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; or

(b) The candidate receiving the highest number of votes cast by his political party shall be awarded a pro rata portion of the authorized delegate vote of his political party in compliance with the state party rules for that party.

(2) Each political party shall, on the first ballot at its national convention, cast this Commonwealth's vote for the candidates as determined by the primary and calculated under this section. Provided, however, that in the event of the death or withdrawal of a candidate receiving votes under this section prior to the tabulation of the first ballot, any delegate votes allocated to such candidate shall be considered uncommitted. Withdrawal shall mean notice in writing by the candidate to the chairman of the Kentucky delegation prior to the first ballot.

SECTION 16. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

It shall be the responsibility of the state chairman of each political party to notify his party's national committee no later than January 30 of each year in which such presidential primary shall be conducted of the provisions contained herein relating to the automatic vote on the first ballot as required under Sections 6 to 16 of this Act.

Section 17."

And on page 13, line 20, by deleting "7." and after "Section" by inserting "18."

The following meetings were announced:

Committee on Rules: On adjournment, State Reception Room.

Education: Budget Review, Tuesday, 8:00 a.m., Room 109.

Appropriations and Revenue: Tuesday, Room 109.

Counties and Special Districts: Tuesday, 8:00 a.m.

Appropriations and Revenue Subcommittee on Human Resources: Monday, 9:00 a.m.

Transportation Budget Subcommittee: Cancelled for Monday.

Labor and Industry: Tuesday, 8:00 a.m., Room 104.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, January 31, 1984.

On the roll call the vote was yeas 64-Arnold, Barrows, Bendl, Blandford, Bronger, Brown, Burch, Caldwell, Clapp, P. Clark, Clarke, Cowan, Crupper, Curd, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Fryman, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Long, McBee, McNutt, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 8-Blevins, Handy, LeMaster, Little, Maggard, Moore, Overstreet, Perkins.

TUESDAY, JANUARY 31, 1984

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Jim Fuller, Stamping Ground Baptist Church, Stamping Ground, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Holloway.

Representative Morris moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Morris moved that the reading of the Journal of January 27, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 19, SB 66, SB 94, SCR 6,** and **HB 147.**

Introduction of Bills and Resolutions

HB 483, by Representatives T. Jones, Mann, Moberly, Thomas, Noe, and Johnson: AN ACT relating to the education and identification of hearing impaired children and making an appropriation therefor.

HB 484, by Representatives T. Jones, Noland, and Moberly: AN ACT relating to court districts.

HB 485, by Representative LeMaster: AN ACT relating to limitation of actions of persons confined in the penitentiary.

HB 487, by Representative Overstreet: AN ACT relating to piano tuners.

HB 488, by Representative Hancock: AN ACT relating to elevator inspectors.

HB 489, by Representative Kidd: AN ACT relating to precinct captains.

HCR 40, by Representatives T. Jones, Moberly, Arnold, Barrows, Bendl, Bennett, Blandford, Bronger, Burch, Crupper, Curd, Donnermeyer, Dunn, Farrow, Gray, Hancock, LeMaster, Little, Long, Lundergan, Mann, McBee, Meyer, Noe, O'Brien, Perkins, Petty, Rapier, P. Richardson, Seum, F. Smith, Stumbo, Thomas, Thomason, Van Horn, and Williams: A CONCURRENT RESOLUTION authorizing and directing the Clerk of the House of Representatives to send a message to the President of the United States and the United States Congress advising them that there is hunger in the United States of America.

HR 41, by Representative LeMaster: A RESOLUTION directing appointment of a committee to wait upon the Chief Justice.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 121.**

Counties and Special Districts: **HB 482.**

Health and Welfare: **SB 15, HB 459.**

Judiciary-Civil: **HB 476, SB 11.**

Judiciary-Criminal: **HB 458, HB 478, HB 481.**

Natural Resources and Environment: **SB 58.**

State Government: **HB 460, HB 477, HB 479, HB 480.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 389.**

Report of Committees

The Committee on Rules reported **HB 52, HB 53, HB 71, HB 80, HB 270, HB 282, HB 333, HCR 21, HB 311, HB 356,** and **HB 350** have been posted for passage in Orders of the Day, February 1, 1984.

The Committee on Rules reported **HJR 1** and **HJR 2** have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Appropriations and Revenue reported **HB 367** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 367, AN ACT relating to income taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:
As used in this chapter, unless the context requires otherwise:
(1) "Commissioner" means the commissioner of revenue;
(2) "Department" means the department of revenue;
(3) For tax years beginning on or after January 1, 1982, except as otherwise provided in this section, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1981, including the provisions of the Economic Recovery Tax Act of 1981 effective on the dates specified in that law, but excluding the provisions of Section 168(f)(8) of the Internal Revenue Code, exclusive of any amendments made subsequent to that date;
(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
(7) "Individual" means a natural person;
(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;
(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code and adjusted as follows:
(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
(b) Exclude income from supplemental annuities provided by the railroad retirement act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
(c) Include interest income derived from obligations of sister states and political subdivisions thereof;
(d) Exclude employe pension contributions picked up as provided for in KRS 61.560, 16.545, 78.610,

161.540, 21.360, 6.505, 67A.320, 67A.510, and 65.155 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employe;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusted as follows, except that deductions shall be limited to amount allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year;

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code and by Section 214 of the Internal Revenue Code as it existed on December 31, 1975 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) [~~1.~~] The total of the deductions allowed under Section 168 of the Internal Revenue Code shall be determined by dividing the total by a factor of one and four-tenths (1.4). The taxpayer's basis in any individual property shall be the same as the basis in such property for federal income tax purposes.

[~~2. Effective for tax years beginning on and after July 1, 1984, the total of the deductions allowed for any tax year under Section 168 of the Internal Revenue Code shall be the total allowed for Kentucky tax purposes.~~

~~3. Effective for the tax year beginning on or after July 1, 1984 and for the five (5) successive tax years thereafter, corporations which computed depreciation deductions under the provisions of paragraph (b) 1. of this subsection shall be allowed to deduct from gross income one-sixth (1/6) of the total difference between the amount of depreciation calculated under Section 168 of the Internal Revenue Code and the amount of depreciation determined under the provisions of paragraph (b) 1. of this subsection.~~

~~4. The provisions of KRS Chapter 45 notwithstanding, the department of revenue shall compute and transmit to the Governor and the legislative research commission, on or before December 1, 1983, an estimate of corporation income tax revenues which would accrue to the state's general fund for each of the fiscal years~~

~~1984-85 and 1985-86 under the following premises:~~

~~a. That the provisions of paragraph (b) 2. and (b) 3. of this subsection are in effect for those fiscal years;~~

~~b. That the provisions of paragraph (b) 2. of this subsection are repealed effective for tax year beginning on or after July 1, 1984;~~

~~c. That the provisions of paragraph (b) 3. of this subsection are repealed effective for tax years beginning on or after July 1, 1984; and~~

~~d. That the provisions of paragraphs (b) 2. and (b) 3. of this subsection are repealed effective for tax years beginning on or after July 1, 1984.~~]

(c) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(d) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(e) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120; and

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "Electing small business corporations" means "electing small business corporations" as defined in Section 1371(b) of the Internal Revenue Code. Stockholders of a corporation qualifying after December 31, 1979 as "electing small business corporations" under Chapter 141 may elect to treat such qualification as an initial qualification under Internal Revenue Code Sections 1371-1378.

The Committee on Counties and Special Districts reported **HB 23** with Committee Amendment attached thereto, **HB 24** with Committee Amendment attached thereto, and **HB 26** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 23, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.065 is amended to read as follows:

(1) The governing body of each district shall annually prepare a budget, and, as appropriate, shall classify budget units in the same fashion as county budgets are classified pursuant to KRS 68.240(2) through (5). The state local finance officer shall prepare standard budget forms for district use, and shall furnish them to county clerks for distribution to district officers.

(2) The governing body of each district *which for the year in question receives from all sources or expends for all purposes less than fifty thousand dollars ($50,000) shall annually prepare a financial statement, except that once every four (4) years the district's governing body shall provide for the performance of an audit as provided in subsection (5) of this section.*

(3) The governing body of each district which for the year in question receives from all sources or expends for all purposes fifty thousand dollars ($50,000) or more but less than one hundred thousand dollars ($100,000) shall annually prepare a financial statement and shall employ an independent certified public accountant or contract with the auditor of public accounts to perform a review of the financial statement, except that once every four (4) years, the district's governing body shall provide for the performance of an audit as provided in subsection (5) of this section.

(4) The governing body of each district which for the year in question receives from all sources or expends for all purposes one hundred thousand dollars ($100,000) or more shall provide for the performance of an annual audit as provided in subsection (5) of this section.

(5) To provide for the performance of an audit, the governing body of a district shall[~~, at least once every four years,~~] employ an independent certified public accountant, or contract with the auditor of public accounts to perform an audit of the funds in the district budget. The audit shall conform to standard audit programs for governmental accounting which are approved by the auditor of public accounts, or to other generally accepted accounting principles as set forth by the Kentucky board of accountancy. A unit of government furnishing funds directly to a district may require additional audits at its own expense. If a district is required by law to audit its funds more often than *is required by this section,* [~~once every four years,~~] it shall perform those audits *and may submit such audits in lieu of the requirements of this section, provided that such audits meet the requirements of this subsection* [~~, but when the audit required by this subsection is performed, no other local audit shall be required~~].

(6) Any resident of the district may bring an action in the circuit court to enforce the provisions of this section. The circuit court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with such provisions. The circuit court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 2. KRS 65.070 is amended to read as follows:

(1) At least once every twelve (12) months, a district shall:

(a) File with the county clerk of each county with territory in the district a certification showing *such of the following information that has changed since the last filing by the district:*

1. The name of the district,

2. A map or general description of its service area,

3. The statutory authority under which it was created, and

4. The names and addresses of the members of its governing body and chief executive officer;

(b) File a copy of the district budget, financial statement if prepared, and audit when performed, with the county judge/executive of each county with territory in the district;

(c) Publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, the names and addresses of the members of its governing body and chief executive officer, and either a summary financial statement which includes the location of supporting documents, or the location of district financial records which may be examined by the public.

(2) The finance and administration cabinet shall prepare and furnish to county clerks standard reporting forms which districts may use to comply with the provisions of this section.

(3) Any resident of the district may bring an action in the circuit court to enforce the provisions of this section. The circuit court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with such provisions. The circuit court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

The Committee Amendment No. 1 to **HB 23** is as follows:

Amend printed copy of **HB 23**, page 1, line 20, by deleting "*one hundred thousand dollars ($100,000)*" and inserting in lieu thereof "*five hundred thousand dollars ($500,000)*";

On page 2, line 9, by deleting "*one hundred thousand ($100,000)*" and inserting in lieu thereof "*five hundred thousand dollars ($500,000)*";

On page 3, after line 4, by inserting the following:

"*(6) The provisions of subsections (2) through (3) of this section shall not apply to any district that is required by law to annually submit a financial report to an agency of state government. Such districts shall annually submit a copy of their financial report to the county judge/executive and to the state local finance officer and once every four (4) years provide for the performance of an audit as provided in subsection (5) of this section.*"; and

On page 3, line 5, by deleting "*(6)*" and inserting "*(7)*" in lieu thereof.

HB 24, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.060 is amended to read as follows:

As used in KRS 65.065, [~~and~~] 65.070 *and Sections 3 and 4 of this Act*, the term "district" shall mean and the provisions of KRS 65.065, [~~and~~] 65.070 *and Sections 3 and 4 of this Act* shall apply to any board, commission or special district created pursuant to the following statutes: KRS 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; KRS 66.610 to 66.650; KRS 74.010 to 74.416; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to 80.610; KRS 91A.350 to 91A.390; KRS 96A.010 to 96A.230; KRS 104.450 to 104.680; KRS 107.310 to 107.500; KRS 108.010 to 108.070, 108.080 to 108.180; KRS 108A.010 to 108A.130; KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS 147A.050 to 147A.120; KRS 152.810 to 152.930; KRS 164.605 to 164.675; KRS 173.450 to 173.650, 173.710 to 173.800; KRS 175A.010 to 175A.990; *KRS 179.700 to 179.735;* KRS 183.132 to 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.760; KRS 215.080 to 215.390; KRS 216.310 to 216.360; KRS 220.010 to 220.613; KRS 249.510 to 249.631; KRS 262.100 to 262.660, 262.700 to 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 273.405 to 273.468.

Section 2. KRS 65.070 is amended to read as follows:

(1) *By the first day of July of each year* [~~At least once every twelve (12) months~~], a district shall:

(a) File with the county clerk of each county with territory in the district a certification showing the name of the district, a map or general description of its service area, the statutory authority under which it was created, and the names, [~~and~~] addresses *and the date of expiration of the terms of office* of the members of its governing body and chief executive officer;

(b) File a copy of the district budget, financial statement if prepared, and audit when performed, with the county judge/executive of each county with territory in the district;

(c) Publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, the names and addresses of the members of its governing body and chief executive officer, and either a summary financial statement which includes the location of supporting documents, or the location of district financial records which may be examined by the public.

(2) The finance and administration cabinet shall prepare and furnish to county clerks standard reporting forms which districts may use to comply with the provisions of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) At least sixty (60) days before the expiration of the term of office of an appointed member of a district's governing body, the district shall notify the appointing authority of the forthcoming expiration of the term of the appointed member of the district's governing body.

(2) Unless otherwise provided by law, appointed members of district governing bodies shall serve until their successors are appointed and qualified. The failure of an appointing authority to appoint a successor or, if the appointing authority's appointment is subject to the approval of a legislative body, to nominate a successor within sixty (60) days of the expiration of the term of office of a member of a district governing body shall constitute the reappointment of that member for another term of office.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Except where the law provides that fiscal court members may serve as members of a district's governing body, the fiscal court of the county in which the greater portion of the district's population lies may, by resolution, designate one of its members to serve as an ex officio member of a district's governing body. Fiscal court members shall be eligible for ex officio membership on a district's governing body regardless of residency, political affiliation or other restrictions on board membership.

(2) The fiscal court shall notify the district of the designation of an ex officio member of the

governing body and the district shall provide the ex officio member with notice of all regular and special meetings of the district's governing body.

(3) An ex officio member of a district's governing body designated pursuant to this section shall not be counted in determining a quorum nor shall he vote on matters before the district's governing body.

(4) An ex officio member of a district's governing body designated pursuant to this section shall receive no compensation for attending meetings of the district's governing body but shall be reimbursed for expenses on the same basis as members of the district's governing body.

(5) An ex officio member of a district's governing body designated pursuant to this section shall serve in such capacity at the pleasure of the fiscal court.

The Committee Amendment No. 1 to **HB 24** is as follows:

Amend printed copy of **HB 24,** page 4, line 22, after "*compensation*" by inserting "*or reimbursement for expenses*";

On page 4, line 23, after "*body*" by inserting a period ". and by deleting the remainder of line 23;

On page 4, lines 24 and 25 by deleting lines 24 and 25 in their entirety.

HB 26, AN ACT relating to management of public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.520 is amended to read as follows:

The department shall, with due regard to the program activities of the state and local agencies concerned, prescribe the policies and principles to be followed by state and local agencies in the conduct of their records management programs, and make provisions for the economical and efficient management of records by state and local agencies by analyzing, developing, promoting, and coordinating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value and by promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records. *The department may accept, administer and grant any money appropriated or granted to it, in addition to appropriations from the general fund, for providing and improving records management programs of state and local agencies.*

The Committee Substitute to **HB 26** is as follows:

HB 26, AN ACT relating to management of public records.

WHEREAS, vital public records which safeguard both civil and property rights are in imminent danger of destruction from natural and man-made causes; and

WHEREAS, many county and city governments lack resources to solve records management problems; and

WHEREAS, the Department for Libraries and Archives is responsible for providing for the economical and efficient management of public records; and

WHEREAS, it is appropriate that revenues necessary to fund an adequate vital records management program be raised from fees for recording such records;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.520 is amended to read as follows:

The department shall, with due regard to the program activities of the state and local agencies concerned, prescribe the policies and principles to be followed by state and local agencies in the conduct of their records management programs, and make provisions for the economical and efficient management of records by state and local agencies by analyzing, developing, promoting, and coordinating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value and by promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records. *The department may accept, administer and grant any money appropriated or granted to it, in addition to appropriations from the general fund, for providing and improving records management programs of state and local agencies.*

Section 2. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) A tax of *three dollars ($3.00)* [~~one dollar ($1.00)~~] on each power of attorney to convey real or personal property; on each mortgage, financing statement, security agreement or conveyance of real or personal property, and on each lien or conveyance of coal, oil, gas or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the filing of an instrument subject to the tax or the issuance of a marriage license. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the department of revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.

(4) Any county clerk liable for the taxes imposed by this section who fails to file a report and pay the tax to the department on or before the due date shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of the tax due. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 3. In order to provide a vital records management program, which shall include grants to local governments, there is hereby appropriated from the General Fund to the Kentucky Department for Libraries and Archives the sum of nine hundred fifty thousand dollars ($950,000) for fiscal year 1984-85 and nine hundred fifty thousand dollars ($950,000) for fiscal year 1985-86.

The Committee on Committees filed the following report:

The Committee on Committees announces the appointment of the Representative from the 50th Legislative District as the liason member to the Commerce, Energy and Natural Resources - Budget Review Subcommittee.

Orders of the Day

Representative Meyer moved that **HB 307** be recommitted to the Committee on Judiciary-Civil. Agreed.

HB 316 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 316** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Barrows, Pearman.

HB 316 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 316** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 99, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of the Committee Substitute to **HB 99**. Agreed.

Representative Yates moved that **HB 99,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 99, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 99,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314, with Committee Amendment and Floor Amendment, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of the Committee Amendment No. 1 to **HB 314.** Agreed.

Representative Nett moved that **HB 314,** as amended, be passed.

Representative Heleringer moved the adoption of the Floor Amendment No. 1 to **HB 314.** Agreed.

Representative Nett moved that **HB 314,** as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 43-Bendl, Bennett, Bruce, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Curd, Dunn, Ford, Freibert, Gedling, Gray, Hancock, Handy, Harper, Hines, T. Jones, Kenton, LeMaster, Lile, List, Long, McNutt, Moberly, Moore, Morris, Nett, Noe, O'Brien, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, B. Smith, Williams, Worthington, Yates. Nays 43-Allen, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Caldwell, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Foster, Fryman, Guenthner, Head, Heleringer, Holbrook, Lefevers, Little, Lundergan, Maggard, Mann, Noland, Overstreet, Patrick, Perkins, Petty, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White.

The motion that **HB 314,** as amended, be laid on the Clerk's desk was rejected.

Representative Nett moved that consideration of **HB 314,** as amended, be deferred and that it be placed first in Orders of the Day for tomorrow.

On the roll call the vote was yeas 42-Barrows, Bendl, Bennett, Brinkley, Bruce, Burch, Clapp, P. Clark, Clarke, Cowan, Craddock, Curd, Dunn, Freibert, Gedling, Gray, Hancock, Handy, Hines, T. Jones, Kenton, LeMaster, List, Long, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Pearman, Priddy, Rapier, Rattliff, Richards, B. Richardson, B. Smith, Stone, Worthington, Yates. Nays 42-Allen, Blandford, Blevins, Bronger, Burnette, Caldwell, L. Clark, Crupper, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Guenthner, Heleringer, Holbrook, Lefevers, Lile, Little, McElroy, Moore, Noland, Overstreet, Patrick, Perkins, Petty, Reinhardt, P. Richardson, Riner, Robinson, Seum, F. Smith, Stumbo, Thomas, Todd, Turner, Van Horn, White.

The motion that consideration of **HB 314,** as amended, be deferred and that it be placed first in Orders of the Day for tomorrow was rejected.

Representative Nett moved that **HB 314,** as amended, be recommitted to the Committee on Cities.

Representative Bronger moved that **HB 314**, as amended, be laid on the table.

On the roll call the vote was yeas 43-Allen, Blandford, Blevins, Brinkley, Bronger, Burnette, Caldwell, L. Clark, Dawahare, Deskins, Endicott, Ford, Foster, Fryman, Gray, Guenthner, Harper, Head, Heleringer, R. Jones, Layman, Lile, List, Little, Lundergan, Maggard, McElroy, Moore, Noland, Overstreet, Perkins, Petty, Rattliff, Reinhardt, Riner, Robinson, Seum, Stone, Stumbo, Thomas, Van Horn, White, Worthington, Nays 42-Barrows, Bendl, Bennett, Bruce, P. Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Freibert, Gedling, Handy, Hines, Holbrook, T. Jones, Lefevers, LeMaster, Long, Mann, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Priddy, Rapier, Richards, B. Richardson, P. Richardson, B. Smith, F. Smith, Thomason, Turner, Williams, Yates.

HB 314, as amended, was laid on the table.

HB 243 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HB 243** be passed.

On the roll call the vote was yeas 88-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 243 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 243** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 241 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 241** be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 241 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 241** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative LeMaster moved the adoption of the following **HR 41**:

HR 41, A RESOLUTION directing appointment of a committee to wait upon the Chief Justice.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the President appoint a committee of this body to join a like committee of the Senate to wait upon the Chief Justice of the Commonwealth of Kentucky and invite him to address a joint session of the General Assembly on Tuesday, January 31, 1984.

HR 41 was adopted by voice vote.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 490, by Representatives Mann, Harper: AN ACT relating to income taxes.

HB 491, by Representative Seum: AN ACT relating to visitation rights.

HB 492, by Representative Burnette: AN ACT relating to child support.

HB 493, by Representatives Donnermeyer, Petty: AN ACT relating to emergency medical technicians.

HB 494, by Representtive O'Brien: AN ACT relating to manufactured homes.

HB 495, by Representative Donnermeyer: AN ACT relating to fire protection sprinkler contractor's license.

HB 496, by Representatives Kenton, Bendl, and Freibert: AN ACT relating to child support enforcement.

HB 497, by Representatives R. Jones and Gray: AN ACT relating to traffic regulations.

HB 498, by Representative Burnette: AN ACT relating to public assistance.

HB 499, by Representatives Williams, Van Horn, Guenthner, Overstreet, Deskins, and Fryman: AN ACT relating to workers' compensation.

HB 500, by Representatives Williams, Van Horn: AN ACT relating to grand jury transcripts.

HB 501, by Representatives Stone, Brinkley: AN ACT relating to the payment of wages.

HB 486, by Representatives B. Richardson, Blandford, Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, Clarke, Cowan, Crupper, Curd, Donnermeyer, Dunn, Ellington, Farrow, Foster, Gedling, Gray, Harper, Johnson, R. Jones, Kidd, LeMaster, List, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Nett, Pearman, Petty, Priddy, Rapier, Richards, Riner, F. Smith, Stone, Stumbo, and Thomas: AN ACT relating to sexually abused, missing and exploited children, including those persons who commit offenses relating thereto.

HJR 42, by Representatives Maggard, Cyrus: A JOINT RESOLUTION directing the state Department of Highways to pave Kentucky route #1098 in Breathitt County.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Health and Welfare: **HB 486.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 398.**

Business Organizations and Professions: **HB 435.**

Energy: **HB 329.**

Report of Committees

The Committee on Transportation reported **HB 43,** with Committee Amendment attached thereto, and **HB 268,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 43, AN ACT relating to buses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.619 is amended to read as follows:

(1) The term "nonprofit bus certificate" means a certificate authorizing a private, nonprofit corporation or a community action agency, not otherwise exempt from the provisions of this chapter, to operate motor bus or van equipment to transport passengers for hire, on other than a casual or occasional basis, between certain points within a given county or counties over regular or irregular routes, or a combination of such routes. A nonprofit bus system shall be deemed "for hire" if there is charged, contributed or received any compensation or grant of funds from the passengers themselves, individually or as a group, or from any outside source paying for or subsidizing, in whole or in part, the operating expenses attributable to the transportation services being provided, but a holder of a nonprofit bus certificate shall be deemed to be exempt from rates and services regulation by the bureau, as provided for by KRS 281.675 through 281.705, unless otherwise provided therein.

(2) *All private, nonprofit corporations or community action agencies seeking funding for bus services under Title 49, Chapter 21, Sections 1603 and 1618 of the U.S. Code, shall be assisted in the completion of any application required by the transportation cabinet by the appropriate area development district as created in KRS 147A.050.*

(3) If any intracity passenger service is proposed by an applicant for a nonprofit bus certificate, a letter or resolution of support from the affected city shall be filed with the application.

(4)[~~(3)~~] Any nonprofit bus certificate issued by the bureau shall describe the passenger service or services authorized to be performed, including the types of passengers who may be transported if service is not to be held out to the general public, the points between which or the area within which such passengers may be transported, and whether regular or irregular route operations, or both, are authorized. If regular route operations are to be authorized, the certificate may merely set forth that such are permitted between certain points or within a certain area, leaving it to the certificate holder to develop its own specific route structures and schedules.

(5)[~~(4)~~] Any private, nonprofit corporation or community action agency engaged, as of June 17, 1978, in the for-hire transportation of persons, as defined in subsection (1), pursuant to a valid certificate of public convenience and necessity or permit shall, upon application, be entitled to the issuance of a nonprofit bus certificate to thereafter authorize a continuation of the same operations. Any such corporation then having an application pending for a certificate of public convenience and necessity or permit shall be entitled to a conversion of such, consistent with principles of procedural due process, to one for a nonprofit bus certificate.

The Committee Amendment No. 1 to **HB 43** is as follows:

Amend printed copy of **HB 43,** page 2, lines 6 and 7, by deleting the words "*appropriate area development district as created in KRS 147A.050*" and adding the words *transportation cabinet or its designated representative. The transportation cabinet shall inform applicants for these funds of the provider of the assistance in their geographic area* in lieu thereof.

HB 268, AN ACT relating to motor vehicle equipment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad or publicly owned civil defense agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights *utilized in combination or conjunction with one (1) or more flashing, rotating or oscillating red lights,* visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) All public safety vehicles shall be equipped with one or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(4) Red flashing lights may be used by school buses.

(5) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

The Committee Amendment No. 1 to **HB 268** is as follows:

Amend printed copy of **HB 268,** page 1, line 17, after the word "lights" by adding the following: "*or flashing, rotating or oscillating blue lights*"

Motions, Petitions, and Communications (continued)

Representative LeMaster announced a meeting of the Committee on Rules, on adjournment, State Reception Room.

Representative Williams moved that **HB 225,** as amended, be taken from the Clerk's desk. Agreed.

Representative Arnold moved that **HB 441** be reassigned to the Committee on State Government. Agreed.

The Speaker announced the appointment of the following members to serve on the Committee to wait upon Chief Justice Robert F. Stephens of the Supreme Court of Kentucky: Representatives Reinhardt, Hines, and Richards.

Recess

Representative LeMaster moved that the House recess until 2:55 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Honorable Steven L. Beshear, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative LeMaster moved that the House and Senate now resolve into Joint Session for a State of the Judiciary Address by Chief Justice Robert F. Stephens. Agreed.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Steven L. Beshear, President of the Senate, assumed the Chair and called the Joint Session to order.

Representative LeMaster moved to dispense with a call of the roll. Agreed.

Prayer by Reverend Jim Fuller.

The doorkeeper announced the arrival of Chief Justice Stephens.

The Committee of the House, along with a like Committee from the Senate, previously appointed to wait upon the Chief Justice, escorted him to the podium.

The Honorable Steven L. Beshear introduced the Honorable Robert F. Stephens, Chief Justice of the Supreme Court of the Commonwealth of Kentucky.

Justice Stephens addressed the General Assembly as follows:

STATE OF JUDICIARY ADDRESS

TO THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY

BY: ROBERT F. STEPHENS

CHIEF JUSTICE, KENTUCKY SUPREME COURT

JANUARY 31, 1984

Acknowledge:

Lieutenant Governor

Speaker of the House

Members of the General Assembly of the Commonwealth

Fellow Members of the Judiciary

Guests

Friends, and

Citizens of the Commonwealth of Kentucky

I deeply appreciate the opportunity to appear before this joint session of the Kentucky General Assembly to give my constitutionally mandated report to you and to the people of the commonwealth, on the State of the Judiciary.

I consider it a great honor and personal privilege to stand here, following in the footsteps of two great former Chief Justices Scott Reed and John S. Palmore - both of whom were instrumental in the creation and implementation of the constitutional amendment which brought Kentucky's judicial system into the 20th century and placed the Commonwealth in a position of leadership in the United States.

Some of what I say this day will be familiar to many of you, but because of the new faces here, I feel constrained to give a brief overview of our judicial system. It consists of four courts. The district court and circuit court are basically trial courts. The Court of Appeals and Supreme Court are appellate courts. We have 123 district judges, 91 circuit judges, 14 judges of the Court of Appeals, and seven justices of the

Supreme Court, totalling 235 in all. All of these judges are elected, on a non-partisan basis, by the people of their respective districts; the district judges for terms of four years and all others for terms of eight years.

For each county in which no district judge resides, a trial commissioner who does reside in the county serves by appointment of the judge for the limited purposes of issuing warrants, accepting guilty pleas and disposing of minor criminal charges, probating wills and appointing executors and administrators, issuing orders of attachment and providing for the temporary detention of juveniles and mentally ill persons.

As the functioning of all courts entails a great deal of paper work and record keeping, our district and circuit courts are supported by 120 circuit court clerks, each elected by the people of his or her county, and by their locally appointed staffs. The Supreme Court and Court of Appeals likewise are supported by an appointed clerk and staff.

Section 110 of the Constitution of Kentucky assigns the executive authority over this entire unified court of justice to the chief justice and directs the chief justice to appoint such administrative assistants as are necessary to carry out that responsibility. Accordingly, we have an Administrative Office of the Courts for that purpose, consisting of some 75 people. This office, commonly referred to as AOC, provides the administrative services that are necessary to the orderly functioning of the system, such as: procurement and distribution of supplies and equipment, rental of courthouse facilities, employment and regulation of personnel, handling of payrolls and expense accounts, training of new clerk personnel and continuing education of clerks and judges, gathering and monitoring of caseload statistics, special assignment of judges, preparation and distribution of instruction manuals, financial control and accounting, budget preparation, pretrial release of arrested persons, and general supervision over the operation of the 120 offices of the circuit clerks.

In all, the judicial system has a complement of about 2,100 salaried personnel, consisting of 235 judges, 66 trial commissioners, 120 clerks, 1100 deputy clerks, 75 AOC employees, 150 pretrial release employees, and 250 secretaries, court reporters, and other staff.

Upon assuming office, each judge takes an oath of office. He or she swears that they will - and I quote:

"Support the Constitution of the United States and the Constitution of this Commonwealth."

Moreover, they swear that they will - and, I again, quote:

> "Administer justice without respect to persons, and do equal right to the poor and to the rich, and will faithfully and impartially discharge all the duties incumbent upon (them) as a judge."

It is well considered, I think, in *both good and bad economic times*, to reflect upon the fact that administering *equal justice* is the primary and constant purpose of the judicial branch of government. Our ability to do that is the ultimate test of whether or not we have been successful.

The most important ingredient of the judicial department is the dedicated men and women who serve the Commonwealth as judges and circuit clerks with integrity, discretion and a measure of wisdom. It is only through a judiciary of competence, independence, and integrity that another important purpose of government can be achieved. *That purpose is to maintain the rule of law.* This important philosophy is too often taken for granted. But, it is only through the rule of law that we have our freedom. It is for this reason that a fair and effective judicial system must be maintained and it is for this reason also that the failure to do so is immediately noticed and judged very harshly by the public. The failure of courts, nationally, to promptly dispose of their business is widely seen as a breakdown in the justice system and has been a serious public concern in this country for many years and is likely to remain so for the foreseeable future.

Except for a few notable, but limited, exceptions, shortcomings of courts have not been as a consequence of corrupt or incompetent judges. On the contrary, the failures for the most part, are failures of administration.

In most of the states of this union, the administration of courts remains fragmented and in serious disarray. Courts subsists to varying degrees on local, state and federal funding and have no clear cut and definitive lines of authority or leadership for administrative purposes. For the most part, the administration of justice is languishing in a quagmire of inadequate facilities, insufficient support personnel, antiquated equipment and procedural rules more suited to the leisurely pace of the 19th century than to the press of modern day volume and change. Indeed, it is the failure of the administration of courts to heed, let alone cope with this age of profound and sweeping change, which has caused courts to sink to a level of low public repute.

It is in this struggle to modernize, to streamline and to more effectively meet the responsibilities of courts, that Kentucky has assumed a position of nationwide leadership. Kentucky has, and is generally recognized nationally as having, one of the finest constitutional frameworks for its judiciary. Those states attempting to improve their framework of justice come to see how we do things in Kentucky. This is a development for which the General Assembly can and should take great pride, because it was this body which put the judicial article on the ballot for the voters' consideration and it was this body which has, since 1976, regularly provided the leadership, the statutory enactment and financing to implement the new judicial article.

This is not to say that Kentucky is immune from the problems which I have described, but rather to say that we have within our constitutional scheme of things the means to better cope with the problems which beset us all.

As familiar as we all are with the components of the judicial article it is, I think, wise to remind ourselves of the basic principles of the article and where we stand today in terms of avoiding the administrative failures which might thwart the full realization of these principles.

The first of these great principles is that all of the public's business with the courts shall be disposed by full-time hard working judges, well trained in the law. Kentucky is one of the few states wherein all of the judicial business is handled by full-time judges who are required to be attorneys. This principle assures that judges will be trained to make skilled decisions and that those decisions will not be tainted by conflicts of interest which would inevitably arise if the judges were not full time. Basic to this principle are provisions for sufficient number of judges, adequate judicial compensation, adequate physical facilities, adequate support staff, and mandatory continuing judicial education. Presently, the number of district judges is sufficient to handle the work of that court. Likewise, we are very close to having a sufficient number of circuit judges to promptly handle all of the business of that court, in spite of the regular annual increasing case load. However, there are two notable exceptions which our court has certified to you for immediate relief. The 22nd judicial circuit consisting of Fayette County, which has the highest weighted caseload in the state and the 41st judicial circuit consisting of Clay, Jackson and Leslie Counties, which is one of three circuits in the Cumberland region of judicial circuits which have too much work for the present complement of judges.

Of greater concern is the present condition of the Court of Appeals. Since its inception in 1976 the workload of that court has grown by *56.2%*. In the last two years it has increased by *17%*. It has become a virtual impossibility for the hard working judges of that court to product quality dispositions in a timely manner. We have, therefore, certified one additional judge for the Court of Appeals for each of the seven appellate districts. No increase has been requested for the Supreme Court, which has a sufficient number of justices to promptly handle the business to the court.

On the subject of compensation, no judicial salary increase has been requested other than the modest cost-of-living increases which have been provided over the last three years and which we hope will be continued through the next biennium.

To help assure a competent judiciary, our court has developed a program of mandatory continuing judicial education. All our judges are required to attend programs which will further their education and, which, more importantly, will help enable them to both apply the law and make their own contribution to the law's development. The continuing judicial education commission, which includes members of the House and Senate, oversees the administration of the continuing judicial education rules. Likewise, our circuit clerks and deputies benefit from periodic programs which enable them to stay abreast of the procedural and statutory changes which affect the performance of their duties.

The second great principle of the judicial article is unity of administration. It is this principle which enables the Supreme Court, through the Chief Justice and his staff, to administer the system as a unit, to marshal our resources to solve critical problems, to bring about steady improvements and to plan for the near and distant future.

The regional administration program, which has been recently restructured, has become a major administrative tool to equalize the workload and provide for prompt substitution of judges in cases of disability or disqualification. The state has been organized along lines roughly comparable to our appellate districts and in each such geographic region I have *appointed* a chief regional judge. It is the responsibility of that chief regional judge and, in his absence or disqualification, the vice-chief regional judge, whom I also appoint, to provide for prompt substitutions, *and more importantly*, to formulate plans to equalize the workload among all the judges. *Equal work for equal pay is the essence of this program.* We have requested modest funds to fully support it.

During the past six years, since the full implementation of the article, there has been no greater improvement in the conditions of our trial courts than the improvement in local court facilities. Since the passage of the Local Court Facilities Act in 1978, we have seen a near complete halt to the deterioration of courthouses and in many, many instances a marked improvement. Refurbishments, renovations, new construction and improvements of all nature and descriptions have taken place. These improvements have come about as a consequence of your legislation which has made it possible for state and local government to work in cooperation to maintain and improve these structures which house the seat of government for each of our 120 counties. We have requested funds to continue this program at present levels and have also requested funds for major courthouse improvements in Fayette and Warren Counties, both of which are badly needed.

The circuit clerks form the backbone of our courts at the local level. The circuit court clerks and their deputies have a major responsibility for providing administrative support to our courts at the local level. While their workload has dramatically increased, their complement of deputies has remained fairly constant. The clerks' offices in more than half of the counties are staffed by three or fewer deputies. We have requested funds for modest salary improvement for these underpaid dedicated employees and some funds for a limited increase in the number of employees in the most hard pressed counties with the fewest employees. Some limited secretarial help for our district judges, many of whom have *no secretarial help at all*, has also been requested.

No discussion of administration would be complete without mentioning our rule-making process. For the last year our court has limited rules changes to one annually in order that these changes might be adopted at regular intervals after public discussion. Justices of the Supreme Court head committees which review the civil and criminal rules, and the judicial ethics rules of our court. Our court has implemented a special set of rules relating to the economical litigation project in three selected localities in order to determine the best methods of reducing the expense and delay involved in civil litigation. As I mentioned previously, one of the serious criticisms of the courts is the failure to dispose of their business in a manner which is timely and economical for the litigants. This so-called ELP program has been extremely successful in both reducing the delay and economic burden of moving cases through court and we will consider the adoption of some of the most effective of these rules on a broader basis.

All members of the Supreme Court are keenly ware of the dire financial straits into which the Commonwealth has gradually become immersed. We have, accordingly, presented to you a budget request which contains no fat and one which has been carefully and extensively reviewed by the staff of the Legislative Research Commission and by various members of the General Assembly. We are also aware that there are many priorities in the expenditure of money which ultimately must be determined by this body. We believe that you will, as you have in the past, respond to the needs of the people's judicial system.

It is given fact, in this country, and in our Commonwealth, that we are living in a litigious society. People are using the court system more and more - to air and settle disputes. Issues that never appeared before us 10-20 years ago, are now becoming commonplace on our dockets. It is also a given fact that the issues litigated are becoming more and more complex and require greater time, concentration and skill for the sitting judges to consider. It is equally true that the judicial branch of government, in bad economic times, has an inordinate amount of work to do. Because of this increased work load and because of the lack of available money for expansion, the Court of Justice is literally caught in a "Catch 22" situation.

The Kentucky judicial system has, I believe, responded to the problem well. The energy of the members of the judiciary is shown by the increasing rate of disposition of cases. Our continuing legal education programs have helped to equip judges to better decide cases. The many programs we have instituted have shown the way to make the system more efficient and more economical. I believe all of us in the Kentucky Court of Justice have recognized the problems and have jointly "put our shoulders to the wheel" to solve those problems without simply throwing taxpayers' money into the breach in an attempt to solve those problems. I pledge to you and to the citizens of the Commonwealth, that while I am chief justice, these efforts will be continued and strengthened.

But the fact remains that the growth of litigation is increasing and will undoubtedly continue to be increased. It is my duty to bring this fact to your attention and to the attention of the people whom we serve.

We have problems now and I foresee more in the near and in the distant future. Our budget request for new money is reluctantly made. Even though the judiciary's share of the General Fund Budget has consistently been a modes 2.1% to 2.3% of the General Fund and even though the system generates nearly 70% of the money spent by the system, we have deliberately minimized our request. But, the problems still exist. I have suggested to you, in separate documents, certain programs which are needed to solve the problems. I have suggested - in certain instances - alternatives which are, at best, a band-aid approach. I hope you will give them your deepest consideration.

The constitutional responsibility of the judiciary has not been, historically, and is not now, an easy one. The seas of judicial decisions are often covered with high waves. We are duty bound to provide for *all* the people of this Commonwealth a system of courts that adequately and economically serve the people. There must be a sufficient number of qualified, well-trained judges. These men and women should be adequately compensated. There must be sufficient staff to handle and process the flood of paperwork that inundates all of us in government these days. We must have physical facilities which are large enough, in good condition, and appropriate to our task. We must see that every citizen in all of our 120 counties has a judge, and a court available to them at all times.

The judicial system - while not perfect - while no better than the men and women who occupy it - remains, I believe, a bastion of our democracy. It is the essence of freedom. It is - along with a free and independent legislature - the shield that keeps our democracy from veering into arbitrariness. My feeling about the role of the judiciary cannot be better.

Representative LeMaster moved that the Joint Session be dissolved. Agreed.

The Speaker assumed the Chair.

Motions, Petitions, and Communications (continued)

Representative Deskins moved the adoption of the following **HR 36**:

HR 36, A RESOLUTION commending the Eastern/Kentland Mine Rescue Team.

WHEREAS, the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, is the 1983 National Mine Rescue Champion; and

WHEREAS, this honor was achieved in competition with 107 mine rescue teams from several states; and

WHEREAS, the members of this National Mine Rescue Champion team have studied and practiced many hours the technique of proper mine rescue; and

WHEREAS, this national champion two-hour contest mine rescue team has genuine concern for their fellow miners who may need their help and this concern should properly be acknowledged;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the following members of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, are highly commended upon their accomplishment of being the 1983 National Mine Rescue Champions: Tony Casebolt, Captain, Brad Fuller, Bill Linkenhoker, Dennis Phillips, Butch Runyon, Charles Runyon, Dave Williamson, and Jim Kennan and Roger Bartley, Co-Trainers.

Section 2. That when the House of Representatives adjourns on the day of adoption of this resolution it does so in honor of this 1983 National Mine Rescue Champion.

Section 3. That copies of this resolution be sent to the members of the team, the President of Eastern Coal Corp;, the Commissioner of the Department of Mines and Minerals, and the Director of the Mine Safety and Health Administration.

HR 36 was adopted by voice vote.

Representative Williams moved that **HB 225**, as amended be placed in Orders of the Day. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Foster, **HB 405**; Representative Gray, **HB 477**; Representative Handy, **HB 67**, **HB 200**; Representative Harper, **HB 433**; Representative Heleringer, **HB 471**; Representative Meyer, **HB 327**, **HB 328**; Representative O'Brien, **HB 57**, **HB 214**, **HB 215**, **HB 224**; Representative Patrick, **HB 472**; Representative Perkins, **HJR 42**; Representative Reinhardt, **HB 433**; Representative B. Smith, **HB 99**, **HB 286**.

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions: Representative Guenthner, **HB 477**; Representative Lefevers, **HB 325**; Representative Petty, **HB 70**.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 2 to **HB 67**, by Representative Burnette:

Amend printed copy of **HB 67**, page 3, by deleting everything on lines 23 through 26.

Page 4, by deleting everything on lines 1 through 12.

Page 4, line 13, by deleting "*(7)*" and inserting in lieu thereof "*(6)*."

Floor Amendment No. 3 to **HB 67**, by Representative Burnette:

Amend printed copy of **HB 67**, page 12, after line 11, by inserting the following:

Section 5. KRS 360.010 is amended to read as follows:

(1) The legal rate of interest is eight percent (8%) per annum, but any party or parties may agree, in writing, for the payment of interest in excess of that rate as follows: (a) at a per annum rate not to exceed *twenty-four percent (24%)* [~~four percent (4%) in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District where the transaction is consummated or nineteen percent (19%), whichever is less,~~] on money due or to become due upon any contract or other obligation in writing where the original principal amount is fifteen thousand dollars ($15,000) or less, and (b) at any rate on money due or to become due upon any contract or other obligation in writing where the original principal amount is in excess of fifteen thousand dollars ($15,000); and any such party or parties, and any party or parties who may assume or guarantee any such contract or obligation, shall be bound for such rate of interest as is expressed in any such contract, obligation, assumption, or guaranty, and no law of this state prescribing or limiting interest rates shall apply to any such agreement or to any charges which pertain thereto or in connection therewith; provided, however, nothing herein contained shall be construed to amend, repeal, or abrogate any other law of this state pertaining to any particular types of transactions for which the maximum rate of interest is specifically prescribed or provided.

(2) Any state or national bank may charge ten dollars ($10.00) for any loan negotiated at the bank in this state, even if the legal interest does not amount to that sum.

Floor Amendment No. 1 to **HB 232**, by Representative Burnette:

Amend printed copy of **HB 232**, page 3, line 15, by placing brackets "[ ]" around and strike through "state" and, before the word "state" to insert "*agency that recovers the money and shall be used for their official duties and in their discretion*"

Floor Amendment No. 1 to **HB 345**, by Representative Williams:

Amend printed copy of **HB 345**, page 2, line 2, following the word "department" by adding the following: "*or to the recording by a detention facility of incoming calls to, or outgoing calls by, persons confined in the detention facility*"

Floor Amendment No. 3 to **HB 350**, by Representative Allen:

Amend printed copy of of Committee Substitute to **HB 350**, page 13, line 20, after "Section" by inserting the following:

"Sections 2, 4, 5 and subsections (4) and (5) of Section 6 shall become effective January 1, 1985.

Section 8."

And by deleting "7"

And after "Act" by inserting the following:

"establishes a filing date for congressional candidates and this Act changes the primary filing deadline for nonpartisan municipal and judicial primaries to be consistent with the filing deadline established in the election law generally"

And on line 20 by deleting the following: "changes the date for"

And by deleting lines 21-23;

And on line 24 by deleting the following: "date of such primary election"

And on line 25, after "and," by inserting the following:

"Sections 1, 3 and subsection (2) of Section 6 of"

Floor Amendment No. 4 to **HB 350**, by Representative O'Brien:

Amend printed copy of House Committee Substitute to **HB 350**, on page 1, line 1, before the word "Section" by inserting the following:

"SECTION" and by deleting "Section" and after "1." by inserting the following:

"A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 11 of this Act, "political party" means each political party that cast ten percent (10%) or more of the vote for governor in the preceding election, or has a registration equal to ten percent (10%) or more of the total registered voters in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) On the regular primary election day, in accordance with KRS 118.025 in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections.

SECTION 3. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

To qualify to vote in a presidential preference primary in the Commonwealth a voter must register to vote in the same manner as prescribed in KRS Chapter 116. A voter shall vote only in the presidential preference primary of the political party for which he has declared a preference as required by KRS 116.055.

SECTION 4. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

The state board of elections shall convene in Frankfort on the last date prescribed by election law generally for filing nomination papers with the secretary of state prior to a primary. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those generally advocated and nationally recognized as candidates of the political parties for the office of President of the United States. Immediately upon completion of this requirement, the board shall transmit a list of all such nominees selected to the secretary of state and shall also release the list to the news media.

SECTION 5. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) Any person seeking the endorsement by a political party for the office of President of the United States who has not been nominated by the state board of elections, or any group organized in this state on behalf of, and with the consent of, such person, may file with the secretary of state certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in this Commonwealth and are affiliated, by such registration, with the same political party as the candidate for whom petitions are filed.

(2) Such petitions shall be filed by the petitioners with the secretary of state no later than the last date prescribed by election law generally for filing nomination papers with the secretary of state prior to a primary.

(3) The petitions must state:

(a) The name of the candidate for nomination and the party of which he is a member;

(b) The name and address of the chairman of the group circulating such petition.

(4) The secretary of state shall forthwith determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed said petitions.

SECTION 6. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall forthwith contact each person who has been nominated by the state board of elections or by petition and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party, provided that he:

(a) Deposits with the secretary of state the sum required by Section 7 of this Act; and

(b) Forwards to the secretary of state a notice of candidacy form, to be supplied by the secretary of state, along with the written notification required by this section.

(2) Failure of a candidate to deposit the fee required by Section 7 of this Act and to execute the notice of candidacy within fifteen (15) days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary.

SECTION 7. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) Before any candidate's name is placed upon the official ballot by the secretary of state for a presidential preference primary in the Commonwealth, the candidate must deposit with the secretary of state the sum of two hundred fifty dollars ($250), which shall be refunded to the candidate by the secretary of state if the candidate receives three percent (3%) or more of the total vote cast in the presidential preference primary of his political party.

(2) If the candidate fails to receive three percent (3%) or more of the total popular vote cast in the presidential preference primary of his party, the two hundred fifty dollar ($250) deposit shall escheat to the Commonwealth and be placed in a special trust and agency fund to be used by the secretary of state to defray election expenses.

SECTION 8. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall place the names of all candidates who have been nominated by the state board of elections or by petition and who satisfy the requirements of Sections 6 and 7 of this Act on the official presidential preference primary ballot of their respective political parties. The secretary of state shall additionally place on the ballot of each political party a ballot slot for voters to cast an "uncommitted" vote. This vote shall be entitled to the same proportionate representation as a candidate under Section 10 of this Act, but delegates representing these voters shall not be bound by the first ballot requirement of Section 9 of this Act.

(2) If no presidential candidates nominated by the board or by petition meet the requirements of Sections 6 and 7, then no presidential preference primary shall be held in the Commonwealth.

SECTION 9. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

Upon completion of the official canvass of the results of the primary by the state board of elections, the secretary of state shall certify to the state chairman of each political party participating in the presidential preference primary the following:

(1) The names of the candidates entitled to delegate votes under provisions of Section 10 of this Act;

(2) The total vote received by each;

(3) A declaration that the results of the presidential preference primary, in accordance with the division of votes reflected by the official canvass, shall be the official vote cast by each political party at its national convention, on the first ballot only, and shall be designated by Sections 1 to 11 of this Act as an automatic vote, expressing the will of the people of the Commonwealth of Kentucky; and

(4) After the vote on the first ballot by the political party at its national convention, as required by this section, all responsibility under Sections 1 to 11 of this Act shall terminate and further balloting shall be the prerogative of the political parties as might be prescribed by the rules of such political parties.

SECTION 10. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The political parties in distributing authorized delegate votes among party candidates shall select one (1) of the following methods of distribution:

(a) The candidates receiving the highest number of votes, provided each candidate receives at least fifteen percent (15%) of the total vote cast by his political party, shall be awarded a pro rata portion of the

authorized delegate vote of his political party as follows:

1. The total vote received by the candidates qualifying under the provisions of Sections 1 to 11 of this Act and subsections herein shall, when combined, be equal to one hundred percent (100%);

2. Each such candidate shall share in the total percentage in direct proportion to the total vote received by him mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%);

3. Each political party shall appropriate such percentage, as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; or

(b) The candidate receiving the highest number of votes cast by his political party shall be awarded a pro rata portion of the authorized delegate vote of his political party in compliance with the state party rules for that party.

(2) Each political party shall, on the first ballot at its national convention, cast this Commonwealth's vote for the candidates as determined by the primary and calculated under this section. Provided, however, that in the event of the death or withdrawal of a candidate receiving votes under this section prior to the tabulation of the first ballot, any delegate votes allocated to such candidate shall be considered uncommitted. Withdrawal shall mean notice in writing by the candidate to the chairman of the Kentucky delegation prior to the first ballot.

SECTION 11. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

It shall be the responsibility of the state chairman of each political party to notify his party's national committee, no later than January 30 of each year in which such presidential primary shall be conducted, of the provisions contained herein relating to the automatic vote on the first ballot as required under Sections 1 to 11 of this Act.

Section 12. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.

(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36,

#37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek [~~and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line~~].

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting

precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the Lexington-Blue Grass Army Depot and in the election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22

of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, that part of Sandfordtown not contained in the Sixty-third District, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the city of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: that part of Bromley precinct not contained in Ludlow city and in Bromley city, Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts:

Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, and Burtonsville and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, Aspendale, Bluegrass, Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, Ohio, Rookwood, Victory, Walnut Street, Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, Douglas, Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, Imperial, Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles Pike, Viley Heights, Washington, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and Arlington.

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport, Blueberry Hills, Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell, Malabu, Montavesta, Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, Tudor, Bayswater, Kirklevington, Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview, Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, River Park, Blairmore, Edgewater, Ascot, Park Hills, Cove Lake, Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh

District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner , Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood , Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

Section 13. KRS 83A.050 is amended to read as follows:

(1) Except in cities of the second class which operate under the city manager form of government pursuant to KRS 83A.150, election of city officers shall be governed by general election laws as provided in KRS Chapters 116 through 121 unless the city legislative body prescribes by ordinance *that election of city officers shall be under nonpartisan city election laws as provided in KRS 83A.170. Such ordinance shall become effective*[~~,~~] not later than *twenty-three (23)* [~~two hundred forty (240)~~] days prior to *the date prescribed by the election law generally for filing notification and declaration forms with the county clerk in a year in which* a regular election *is to be held* in which any city office is to be filled[~~, that election of city officers shall be under nonpartisan city election laws as provided in KRS 83A.170~~]. Immediately subsequent to publication of any ordinance prescribing that election of city officers be under nonpartisan city election laws, a copy of that ordinance shall be filed with the county clerk of the county in which the city is located. City officers of each city of the second class operating under the city manager form of government pursuant to KRS 83A.150 shall be elected in nonpartisan elections as provided in KRS 83A.170.

(2) A city may change the manner of election of city officers within the provisions of subsection (1)

of this section by ordinance, except that no change shall be made earlier than five (5) years from the last change.

(3) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.

Section 14. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally, *provided, however, that there shall be no primary elections held in cities of the third, fourth, fifth or sixth class in which nonpartisan elections are held.* Nonpartisan [~~primary~~] elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as *those provided in the general election statutes* [~~in regular elections~~].

(3) Each applicant for nomination shall *by,* at least *the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, and each candidate in a nonpartisan election in a city of the third, fourth, fifth or sixth class shall, by at least the last date prescribed by the election law generally for filing certificates or petitions of nomination with county clerk* [~~fifty-five (55) days before the primary election~~], file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled.[~~,~~] If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition *for a nonpartisan primary election* shall be in the following form:

"We the undersigned, qualified voters of the City of ______________ request that the name of ______________ be placed before the voters of the city as that of an applicant for nomination for the office of ______________ at the primary election to be held in our city on the *date prescribed by law for primary elections generally* [~~fourth Tuesday in August ,~~ ________]. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Number	Street
		"

The petition for a nonpartisan regular election in a city of the third, fourth, fifth or sixth class shall be in the following form:

"We the undersigned, qualified voters of the City of ______________ request that the name of ______________ be placed before the voters of the city as that of a candidate for the office of ______________ at the regular election to be held in our city on the date prescribed by law for regular elections generally. We know the candidate to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name $	*Number* N	*Street*

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant *or candidate.* If any voter signs more than one (1) petition of an applicant *or candidate,* the name of that voter shall not be counted as valid on any petition.

(4) Immediately upon expiration of the time for filing petitions *prior to a primary election,* the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(5) Subsection (4) of this section shall not apply *to primary elections* if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(6) Names of applicants for each nomination *in the primary election* shall be placed before the voters of the city. The voters shall be instructed to vote for one candidate, except that they shall be instructed to vote *in a primary election* for the number of legislative body members to be elected in cities nominating legislative body members at-large. No party designation or emblem of any kind, nor any sign indicating any [~~applicant's~~]

political belief or party affiliation *of any applicant or candidate* shall be used.

(7) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(8) Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(9) The two (2) applicants *in a primary election* receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(10) At the regular election following a nonpartisan primary election, the names of the successful nominees shall be placed before the voters.

(11) The nominee receiving the greater number of votes cast for each city office shall be elected.

(12) General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 15. KRS 116.145 is amended to read as follows:

[~~(1)~~] The fee for registration of all voters shall be paid to the county clerk by the state in the amount of twenty-five cents (25) for each person registered.

[~~(2) The amount of sixty dollars ($60) per precinct shall be paid biennially by the state to the county board of elections in counties containing a city of the first class for the purgation of precincts.~~]

Section 16. KRS 117.055 is amended to read as follows:

(1) Each county shall be divided into election precincts. The political territory having the least area within the county's boundaries, with the exception of the total area of a city or town contained within such boundaries, shall be designated an election precinct. Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. The county board of elections shall have the authority to draw precinct lines so as to enable more than one precinct to vote at one location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election. Consideration to the division of said election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so. No election precinct shall be created, divided, abolished or consolidated or the boundaries therein changed later than fifty-five (55) days prior to any primary [~~or general~~] election to comply with the provisions of this section *later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or secretary of state. No election precinct shall be created, divided, abolished or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of this section later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or secretary of state.* The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county. A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the state board of elections, and any changes in boundaries thereafter made shall also be filed with the state board of elections. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.

(2) If the county board of elections fails to perform the duty herein required, then the state board of elections or any citizen and voter of the county may apply to the circuit court of the county for a summary mandatory order requiring the board to perform this duty. Appeals may be taken to the Court of Appeals by either party.

(3) The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial and municipal boundaries.

Section 17. KRS 117.145 is amended to read as follows:

(1) At least two (2) days before any special election and at least *thirty (30)* [~~fifteen (15)~~] days before any primary *election, and at least fifteen (15) days before any* [~~or~~] regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of special paper ballots. The special

And on line 26, after "Section" by inserting "23" and by deleting "6"

And on page 13, line 20, after "Section" by inserting "24. KRS 116.127, Purge in counties containing a city of the first class biennially--Procedure, is repealed.

Section 25. Sections 1-11 of this Act shall become effective January 1, 1985.

Section 26."

And by deleting "7."

And on line 24 after "election" by inserting the following: "; whereas a presidential preference primary is established by this Act; whereas districts in which candidates will be filing are changed by this Act; and whereas this Act establishes a filing date for congressional candidates"

Floor Title Amendment to **HB 356**, by Representative Stone:

Amend printed copy of **HB 356** on page 1, Title line, by deleting the title and inserting in lieu thereof: AN ACT relating to constables.

Floor Amendment No. 1 to **HB 356**, by Representative Stone:

Amend printed copy of **HB 356**, page 2, line 20, after the word "*Any*" by deleting the words "*peace officer not otherwise covered by KRS 189.920(2)*" and inserting the word "*constable*" in lieu thereof; and

On page 3, line 5, after the word "*laws.*" by adding the following language: Section 2. KRS 304.39-110 is amended to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) Liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of bodily injury sustained by any one (1) person as a result of any one (1) accident, and not less than twenty thousand dollars ($20,000) for all damages arising out of bodily injury sustained as a result of any single accident caused by accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) Liability coverage of not less than five thousand dollars ($5,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(c) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada; and

(d) Basic reparation benefits as defined in KRS 304.39-020(2).

(2) Any constable authorized by the fiscal court to utilize blue lights and a siren under the provision of KRS 189.950(5) shall be required to have security of payment of tort liability as follows:

(a) Liability coverage of not less than twenty-five thousand dollars ($25,000) for all damages arising out of bodily injury sustained by any one (1) person as a result of any one (1) accident, and not less than fifty thousand dollars ($50,000) for all damages arising out of bodily injury as a result of any single accident caused by accident arising out of ownership, maintenance, use, loading, or unloading of the secured vehicle;

(b) Liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading of the secured vehicle;

(c) The liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possession, and Canada; and

(d) Basic reparation benefits as defined in KRS 304.39-020(2).

(3) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.

(4)[~~(3)~~] Security for a motorcycle is fulfilled by providing only the coverages set forth in subsections (1)(a), (b) and (c) of this section.

Announcements

The following meetings were announced:

Budget Review: On adjournment tomorrow, Room 12.

Agriculture: Cancelled for tomorrow.

Adjournment

Representative LeMaster moved that the House adjourn until 2 p.m., Wednesday, February 1, 1984.

On the roll call the vote was yeas 72-Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Guenthner, Hancock, Harper, Head, Hines, Holbrook, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Little, Long, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Handy, Maggard, Overstreet, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 1, 1984

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Holloway.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 31, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 101**, **SB 102**, **SB 105**, **SB 110**, and **HB 49**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 147** and **HCR 38** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-2:09 p.m.)

HB 147 and **HCR 38** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 502, by Representatives Gray, Deskins, and Van Horn: AN ACT relating to education.

HB 503, by Representatives Gray, Bennett, Hancock, Van Horn, Clapp, and Turner: AN ACT relating to parent and child.

HB 504, by Representative Williams: AN ACT relating to official misconduct.

HB 505, by Representatives Rattliff, B. Richardson: AN ACT relating to embalmers and funeral directors.

HB 506, by Representatives Blevins, Noland, Dawahare, and Van Horn: AN ACT relating to a pledge of allegiance of the flag of the Commonwealth of Kentucky.

HB 507, by Representatives Brown, Perkins, and Cyrus: AN ACT relating to coroners.

HB 508, by Representative Johnson: AN ACT relating to workers' compensation.

HR 43, by Representatives LeMaster and Turner: A SIMPLE RESOLUTION in memory of Mrs. Lena Holloway.

HR 44, by Representative Heleringer: A SIMPLE RESOLUTION commending Representative Tom Burch upon being named Meathead of the Month.

HB 509, by Representative Mann: AN ACT relating to severely physically disabled adults.

HB 510, by Representative Cowan: AN ACT relating to domestic relations.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 490.**

Banking and Insurance: **HB 494.**

Business Organizations and Professions: **HB 487, HB 493, HB 495.**

Education: **SB 19.**

Health and Welfare: **HB 483, HB 492, HB 496, HB 498, SB 66.**

Judiciary-Civil: **HB 484, HB 485, HB 491.**

Judiciary-Criminal: **HB 500.**

Labor and Industry: **HB 499, HB 501.**

State Government: **HB 488, HB 489, HCR 40, SCR 6.**

Transportation: **HB 497, HJR 42, SB 94.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 55, HB 206, HB 290, HB 328, HB 452.**

Report of Committees

The Committee on Rules reported **HB 57, HB 67,** and **HB 32** have been posted for passage in Orders of the Day, February 2, 1984.

The Committee on Committees filed the following report:

The Committee on Committees has made the following committee assignments:

1. Representative Dolly McNutt shall be moved off the Business Organizations and Professions Committee and placed on the Banking and Insurance Committee;

2. Representative Larry Clark shall be placed on the Business Organizations and Professions Committee and the Judiciary-Civil Committee;

3. Representative Don Gedling shall be placed on the Agriculture and Small Business Committee; and

4. Representative Jon David Reinhardt shall be appointed to the Agriculture and Small Business Committee and the Judiciary-Civil Committee.

The Committee on Cities reported **HB 119,** with Committee Substitute attached thereto, **HB 351, HB 358, HB 387,** and **HB 411** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 119, AN ACT relating to police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 95B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Adjudicating body" means that body authorized to hear evidence relating to a charge filed against a police officer, to determine the truth of said charge and to fix the degree and extent of any punishment;

(2) "Complaint" means a written statement alleging improper conduct either of commission or omission;

(3) "Charge" means a statement alleging specific wrongdoing with an offer to prove the facts, and a request that the offender be punished;

(4) "Employed full time" means working as a sworn peace officer and being paid compensation by a hiring authority for working a uniform schedule;

(5) "Hiring authority" means the agency of government employing a person as a police officer;

(6) "Inefficiency" means conduct exhibiting a lack of ability, skill or capability to perform assigned duties according to acceptable police standards;

(7) "Insubordination" means the willful refusal or failure to comply with a lawful order of a superior officer;

(8) "Misconduct" means conduct or the use of language that is indecent, immoral, profane, obscene, slanderous, disrespectful, disloyal, threatening or defamatory while on duty or in uniform, which is calculated or tends to subvert good order, efficiency or discipline, or which tends to discredit the police department;

(9) "Neglect of duty" means a failure to carry out some expected or required duty or action, either through carelessness or by intention;

(10) "Police officer" means a sworn peace officer who is employed full time by a lawfully organized police department of the Commonwealth of Kentucky;

(11) "Summary disposition" means the imposition of a penalty prior to any hearing by an adjudicating body.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

No police officer shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property for any reason except inefficiency, neglect of duty, misconduct, insubordination, negligence or violation of law or the rules adopted by the legislative body or governing board, and only after charges are preferred and a hearing is conducted as provided in Section 3 of this Act except as otherwise provided in this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

Any person may file a complaint against a police officer with the chief of police. If a complaint is against the chief of police, the complaint shall be filed with the chief executive officer of the hiring authority. Any complaint taken from any individual alleging misconduct, neglect of duty, insubordination, neglect or violation of law or rule on the part of any police officer shall be taken under oath in the form of an affidavit, signed, and sworn to by the individual and notarized. Specifically excluded from the complaint requirements are corrective orders, duty critiques, duty performance directives, counseling and reprimands which are necessary, appropriate and consistent with management responsibilities in the daily functioning of a police department to assure compliance with established rules and regulations.

(1) No threats, promises, or coercion shall be used at any time against any police officer while he is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion.

(2) Upon receipt of a complaint the chief of police shall acknowledge receipt of the complaint in person or in writing to the complainant at the complainant's last known address. The acknowledgement shall state that the complaint will be investigated and that the complainant will be advised of the resolution of the matter.

(3) Upon receipt of a complaint the chief of police, or the chief executive officer of the hiring authority, in the event the complaint is against the chief of police, shall promptly conduct an investigation of the allegations contained in the complaint by appropriate administrative procedures. A complaint based on allegations of wrongdoing must be filed within three (3) months after the facts are alleged to have occurred, except where the alleged conduct would constitute a felony or in instances where the filing of a complaint has been inhibited by the officer. Pending an investigation of a complaint, and a final disposition, the chief of

police, or the chief executive officer of the hiring authority, in the event the complaint is against the chief of police, may impose administrative suspension of police power of the officer or reassign the officer to other duties with pay.

(4) The chief of police or the chief executive officer of the hiring agency, in the event the complaint is against the chief of police, shall notify the complainant in writing what final disposition has been made of the complaint.

(5) If as a result of an investigation of a complaint the chief of police or the chief executive officer of the hiring authority, where complaint is against the chief, has reasonable grounds for believing the allegations are true and has reasonable grounds for believing that such allegations constitute inefficiency, neglect of duty, misconduct, insubordination, negligence, or violation of law or of the rules adopted by the legislative body or governing board, the chief of police or the chief executive officer of the hiring authority, if the complaint is against the chief, may file formal charges or may impose summary discipline in the form of: (a) a written reprimand, or (b) suspension from duty for not more than thirty (30) calendar days without pay.

(6) A police officer who receives a written reprimand or who is suspended from duty without pay may appeal the summary disposition by filing a written statement of appeal with the chief executive officer of the hiring authority within seven (7) days after the date of the written formal notification. The appeal shall proceed as though formal charges had been filed.

(7) Written reprimands shall be expunged from a police officer's personnel records after two (2) years from the date of the reprimand and all records in a police officer's personnel file relating to other forms of disciplinary action shall be expunged from the officer's personnel file after five (5) years from the date of the action.

(8) Unless summary disposition is made or formal charges filed within sixty (60) days of the filing of a complaint, unless justifiable cause is given for the delay, further administrative disciplinary action based on the complaint shall be barred.

SECTION 4. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

(1) A police officer shall not be subjected to questioning nor be required to file a written response to a complaint after a complaint has been filed as provided in Section 3 of this Act until forty-eight (48) hours have expired from the time the request for questioning or request for a written response is made, unless the officer waives such time restrictions; however, such officer may be required to submit a written report of the alleged incident no later than the end of the tour of duty on which the incident is alleged to have occurred. A copy of the complaint shall be furnished to the officer prior to questioning or prior to a request for a written response to the complaint.

(2) Any charge filed as the result of an investigation of a complaint or filed by the chief of police or hiring authority directly without a prior complaint shall be made in writing with specificity as to the nature and circumstances of the alleged violation. The original statement of charges shall be filed with the chief executive officer of the hiring authority and a copy shall be furnished to the officer against whom the charges are filed and the chairman of the adjudicating body.

(3) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any citizen, including but not limited to the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of criminal charges.

(4) When charges or a complaint have been filed against a police officer, no public statements shall be made concerning the charges or complaint by any person of the hiring authority, the police officer or his attorney except identification of the officer and the nature of the charges or complaint, until final disposition of the charges or complaint.

(5) No police officer as a condition of continued employment by a hiring authority shall be compelled to submit to a polygraph examination; speak or testify or be questioned by any non-governmental person or body.

SECTION 5. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

When a hearing is to be conducted by any adjudicating body, the following due process rights and procedures shall be recognized and these rights shall be the minimum rights afforded any police officer charged:

(1) The police officer shall have been given at least seven (7) calendar days' written notice by the chairman of the adjudicating body of the date, time and place of the hearing;

(2) Copies of any sworn statement or affidavits to be considered by the adjudicating body shall be furnished to the police officer no less than five (5) days prior to the time of the hearing;

(3) If the charges are based on a complaint, the individual who filed the complaint shall be subpoenaed to appear at the hearing;

(4) The police officer shall have the right and opportunity to be represented by counsel and to have

counsel present;

(5) The police officer shall be allowed to present witnesses and other evidence, and to cross-examine any witnesses called by the hiring authority. The hiring authority by counsel shall also have the right to cross-examine all witnesses presented by the accused officer;

(6) Strict compliance with the Kentucky Civil and Criminal Rules of Procedure shall not be required. The adjudicating body shall adopt rules of procedure to provide for an orderly hearing;

(7) If any police officer is not given a hearing as provided by this Act within sixty (60) days of any charges being filed, unless justifiable cause is given for the continuance, the charges shall be dismissed with prejudice and not be considered by any administrative adjudicating body. However, a police officer against whom charges have been filed may in writing agree to a postponement to a day certain;

(8) All time limits set out in this Act shall be calculated in accordance with KRS 446.030; and

(9) Upon the hearing, all charges shall be considered denied, unless otherwise stipulated by the officer, and put in issue, and the hearing shall be confined to matters related to the issues presented. All hearings on charges before the adjudicating body shall be closed unless the officer requests an open hearing.

SECTION 6. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

(1) Any police officer who is found guilty by any adjudicating body of any charge, may appeal the decision of the body by filing a complaint in the circuit court of the county except that all appeals by officers of the state police shall be to Franklin Circuit Court. The appeal shall be taken within thirty (30) days of the date the adjudicating body renders its written decision, and the method of appeal shall follow the Rules of Civil Procedure. An appeal shall be an administrative appeal on the record and not a de novo trial on the merits of the case. The aggrieved officer shall have the burden of producing the transcript of evidence before the adjudicating body. The circuit court's review shall be limited to a determination of whether the adjudicating body acted arbitrarily and whether the evidence preponderates against such action. An appeal shall not suspend the penalty imposed by the adjudicating body pending a hearing and determination by the circuit court or any appellate court.

(2) The judgment of the circuit court shall be subject to appeal to the court of appeals. The procedure as to appeal shall be the same as in any civil action.

SECTION 7. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

Nothing contained in this Act shall be construed as limiting or in any way abridging additional rights afforded police officers by statute, ordinance, regulation, contract or other agreement.

SECTION 8. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

(1) For the Commonwealth, the adjudicating body shall consist of the commissioner of the bureau of state police and a panel of ten (10) officers of the bureau to be appointed by the commissioner; in a city of the first class the adjudicating body shall consist of the civil service board as organized under KRS 90.120; and for county police the adjudicating body shall consist of the county police force merit board as organized under KRS 78.440.

(2) Except as otherwise provided in subsection (1) of this section, a hiring authority may by ordinance or regulation, establish an adjudicating body for the purpose of conducting hearings and making final resolution of charges filed against police officers. If a hiring authority does not establish an adjudicating body, then the legislative body or governing board of the hiring authority shall conduct such hearings.

(3) An adjudicating body shall consist of not less than three (3) members selected from the legislative body or governing body of the hiring authority. Terms of office which shall be for fixed periods of time, and conditions of appointment shall be as provided by ordinance or regulation. The members of the adjudicating body shall elect one of its members as chairman. The adjudicating body shall keep full and complete minutes of its proceedings, including any evidence presented at any hearing.

(4) The adjudicating body shall conduct a hearing on all charges filed with it, including all appeals of summary dispositions filed with it pursuant to Section 3 of this Act and may adjourn or continue hearings from time to time until a matter brought before it is resolved. The adjudicating body shall be subject to and have the following authority:

(a) The body is authorized to subpoena and require the attendance of witnesses and the production by them of books, papers, records, and evidence (real or documentary) pertinent to an adjudication of issues before it. The subpoenas shall be issued by the chairman or in his absence any member of the adjudicating body and executed by those peace officers authorized to execute civil or criminal process. Requests for subpoenas shall be submitted in writing to the chairman of the adjudicating body not less than seventy-two (72) hours prior to the date of a hearing. In the event that any person should fail or refuse to appear under such subpoena, or to testify, or to attend, or to produce the books, papers, records, documents or other evidence lawfully required, the adjudicating body through its chairman may report to the circuit court judge or to the district court judge such failure or refusal, and apply for a rule, and said judge may, on such application, compel obedience by proceedings for contempt as in the case of disobedience of the requirements

of a subpoena issued from such court;

(b) Any member of the adjudicating body shall have the power to administer oaths to witnesses at any hearing conducted by the body; and

(c) The testimony heard during a hearing on charges filed shall be stenographically or electronically recorded.

(5) A majority of the adjudicating body shall constitute a quorum. A judgment may be entered only by a majority vote of the adjudicating body. Charges must be supported by a preponderance of evidence presented.

(6) The action and decision of the adjudicating body on each charge shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

Section 9. KRS 16.160 is amended to read as follows:

No officer shall be suspended, reduced in rank or pay, or be discharged or dismissed, except as provided in *this Act* [~~KRS 16.140 and 16.150,~~] and with the further exception that when insufficient funds require a reduction in expenditures, the officer or officers junior in point of service shall be first discharged.

Section 10. KRS 67.323 is amended to read as follows:

(1) Any county may, by order of its fiscal court, duly made and entered of record, create a county fire department merit system, and for that purpose establish a county fire department merit board, whose duties it shall be to classify and examine applicants seeking employment as fire fighters or employes of the fire department of the said county, and, in addition, to promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, fine, suspension and other disciplinary action within the said county fire department of all personnel of the county fire department or departments affected as provided in this section and KRS 67.325 and 78.425, and, in addition thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected as provided in this section, KRS 67.325 and 78.425.

(2) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

(3) KRS 78.410 to *78.440* [~~78.460~~] and 78.990 shall be followed in the establishing of a county fire department merit system as provided in this section. All terms referring to the county police force, by context or definition, shall be taken to mean county fire department. Other terms mean:

(a) "Board" means the county fire department merit board created by subsection (1).

(b) "Chief" means the chief of the county fire department affected by this section, KRS 67.325 and 78.425.

(c) "Assistant chief" means the next in command to the chief of the county fire department affected by this section, KRS 67.325 and 78.425.

(d) "Secretary" means the executive secretary and examiner employed by the county fire department merit board created by this section, KRS 67.325 and 78.425.

(e) "Officer" means any member of the county fire department affected by this section, KRS 67.325 and 78.425.

(f) "Employe" means all other employes of the county fire department affected by this section, KRS 67.325 and 78.425.

(4) This section applies to counties containing a city of the second class which have not established county police merit systems as provided by KRS 78.400 to *78.440* [~~78.460~~] and 78.990.

Section 11. KRS 67.325 is amended to read as follows:

Any county may, by order of its fiscal court, duly made and entered of record, create a merit system for both the county police force and the county fire department, and for that purpose establish a single merit board for both. The board shall concurrently exercise the powers granted by KRS 67.323, 78.400 to *78.440* [~~78.460~~] and 78.990.

Section 12. KRS 78.405 is amended to read as follows:

(1) Any county of the commonwealth of Kentucky may, by order of its fiscal court, duly made and entered of record, create a county police force merit system, and for that purpose, establish a county police force merit board, whose duties it shall be to classify and examine applicants seeking employment as officers or employes of the police force of the said county, and in addition to promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, fine, suspension and other disciplinary action within the said county police force of all personnel of the county police force or forces affected and covered by KRS 78.400 to *78.440* [~~78.460~~] and 78.990, and in addition thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected by KRS 78.400 to *78.440* [~~78.460~~] and 78.990.

(2) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

Section 13. KRS 78.425 is amended to read as follows:

(1) All police officers of whatever rank and title, and all employes of every county police force affected

by KRS 78.400 to *78.440* [~~78.460~~] and 78.990 are covered by the provisions hereof. All such covered officers and employes of every county police force on active duty or service as of the effective date of a duly made and entered order of the fiscal court of the said county creating a county police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for their respective county police force without examination or further qualification, except and unless the chief of police of any county police force shall within sixty (60) days after the establishment of the board certify to the said board that any officer or employe is physically unfit to continue his or her duties.

(2) Where a merit system is established which covers a county fire department, the provisions of subsection (1) shall apply to the county fire department as they apply to the county police force.

(3) All personnel covered by the provisions (a) of KRS 78.400 to *78.440* [~~78.460~~], or (b) KRS 67.323, 67.325 and this section, or both, shall be deemed to be permanent employes subject to their ability to satisfactorily perform their respective duties and further subject to their good behavior.

Section 14. KRS 78.430 is amended to read as follows:

(1) Within ten (10) days after the creation of any board under KRS 78.400 to *78.440* [~~78.460~~], the county judge/executive shall certify to the board the names, rank, rate of pay, the seniority of every officer and employe on the police force as of the effective date of the fiscal court order creating the board.

(2) If there is a board in existence June 14, 1962, the county judge/executive shall within thirty (30) days certify the chief and assistant chief to the board.

Section 15. KRS 78.435 is amended to read as follows:

(1) No officer or employe covered by the provisions of KRS 78.400 to *78.440* [~~78.460~~] shall directly or indirectly solicit or receive or be in any manner whatever concerned in receiving, soliciting or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No person shall use or promise to use his personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 78.400 to *78.440* [~~78.460~~], as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 78.400 to 78.460 shall sign or execute or promise to sign or execute a resignation dated or undated in advance of such appointment or promotion. No officer or employe covered by the provisions of KRS 78.400 to *78.440* [~~78.460~~] shall be suspended, laid off, demoted, promoted, fined, disciplined or threatened, or in any way changed in rank, duty or compensation for withholding or neglecting to pay or make any contribution of any sort, or character, either in money, goods or services or anything of value for any political purpose whatsoever.

(3) No examination question in any examination held by the board shall relate to any political or religious opinion, belief, affiliation or service and no appointment, promotion, demotion, suspension, fine or removal shall be brought about, effected, affected or influenced by such opinions, beliefs, affiliations or services.

(4) No officer or employe covered by KRS 78.400 to *78.440* [~~78.460~~] shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) Nothing contained in KRS 78.400 to *78.440* [~~78.460~~] shall be so construed as to abridge the rights of any officer or employe with respect to his or her personal opinions or beliefs or right to vote.

Section 16. KRS 78.440 is amended to read as follows:

(1) Every county police force merit system board created hereunder shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, promotion, demotion, transfer, layoff, reinstatement, suspension, fine and removal of the officers and employes covered by KRS 78.400 to *78.440, except that a police officer may be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property only in accordance with the procedures set forth in Sections 1 to 8 of this Act* [~~78.460~~]. The board shall publish its rules and any amendments thereto by supplying a certified copy thereof to the county judge/executive, the fiscal court and the chief, and by posting a copy thereof conspicuously in the office or place where the headquarters of the county police is maintained. Said rules and amendments thereto shall be published in the manner prescribed within three (3) days after the adoption thereof.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) 1. Physical, mental, educational, citizenship and age requirements for new employes and officers.

2. Physical, mental, educational, citizenship and age requirements for new employes and officers and seniority requirements for promotion from lower to higher rank or classification.

3. A grade A patrolman must have three (3) years of service as a grade A patrolman before he may be eligible for the promotion to the rank of sergeant. If there are fewer than fifty (50) police officers on the police force, the merit board may waive this service requirement.

(b) 1. Open competitive written, oral and physical tests to determine the relative fitness of all candidates and examinations for original appointment and for promotion.

2. Public notices of examinations provided in [~~subparagraph 1 of paragraph (b) and~~] subparagraph 2 of paragraph (a) of this subsection *and subparagraph 1 of this paragraph.*

(c) Temporary appointments in case of emergency.

(d) Organization and meetings of the board.

(e) Procedure and conduct of public hearings.

(3) No county police force merit system board shall adopt a rule requiring the retirement of officers or employes prior to the first day of the month following the officer or employe's fifty-eighth (58th) birthday. This subsection shall not prohibit retirement prior to age fifty-eight (58) on a voluntary basis.

(4) The board shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade and administer all written tests as required by the board. Said chief examiner shall report to the board the results of all tests given by him and he shall be solely responsible to the board. The chief examiner shall select a panel of four (4) members to conduct an oral examination of the applicants for promotion. The panel shall consist of two (2) persons of a supervisory capacity from the same classified service as the applicant and two (2) persons from an outside agency or agencies in the same field. The chief examiner shall compile the grades of all applicants based upon the percentages as set out below and shall deliver, in a sealed envelope, the scores of all applicants for promotion to the chairman of the board. The chief examiner shall not reveal to anyone the results of said tests other than in the manner set forth herein. If there are fewer than fifty (50) applicants for testing, the merit board may waive the requirements of this subsection and substitute other appropriate testing methods as determined by the board.

(5) Physical fitness for promotion is presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(6) At least ninety (90) days' notice shall be given before the promotional examination is conducted.

(7) The grading of promotional tests shall be as follows: fifty-five (55) per cent for written examination; thirty (30) per cent for oral examination; one (1) per cent for each year in seniority in grade, not to exceed fifteen (15) per cent.

Section 17. KRS 90.190 is amended to read as follows:

(1) Any suspension in excess of ten (10) days, dismissal or demotions of employes *other than police officers* in positions subject to the provisions of KRS 90.110 to 90.230 may be made only by the appointing authority upon the filing of written statements of the reasons of such suspension in excess of ten (10) days, or dismissals or demotions with the board, provided that copies of all such statements shall be furnished to the employes so suspended, dismissed, or demoted, on or before the effective date of such suspension, dismissal, or demotion, provided further that employes holding probationary appointments may be dismissed without the appointing authority being required to furnish either the board or the suspended, or dismissed, or demoted employe with a written statement of the reasons for such suspension, dismissal, or demotion. Any employe who has been suspended in excess of ten (10) days, dismissed, or demoted holding a regular appointment, shall be entitled, upon written demand, to a public hearing by the board, at which time he shall have the right to introduce evidence in his own behalf, and to be represented by counsel.

(2) The board shall investigate and determine the justification for all suspensions in excess of ten (10) days, or dismissals, or demotions, reported, or complained of, according to the provisions of this section. The board shall keep an accurate record of its proceedings under this section, including evidence presented at any public hearing. The board's order and findings shall be final subject to the right of appeal as set out in subsections (3) to (6) of this section. Enforcement of the suspension, dismissal or demotion shall not be suspended pending any proceeding or appeal provided in this section. Copies of the order and findings of the board shall be immediately delivered to the mayor, appointing authority, and to the suspended, dismissed, or demoted employe.

(3) Within twenty (20) days after the order of the board has been entered under subsection (2) *of this section*, any employe, who has been aggrieved by the order of the board, or the mayor or the appointing authority may appeal to the circuit court in the county in which the city is located in the following manner*:*[~~.~~]

(a)[~~(4)~~] Upon request in writing by the person making the appeal, and the payment of costs therefor, the secretary of the board shall file a certified copy of the record and the findings of that body in the circuit court. Upon the record being filed the case shall be docketed in the circuit court and tried de novo.

(b)[~~(5)~~] If the secretary fails to certify the record to the circuit court within five (5) days after the request is made, then the aggrieved person may file an affidavit in that court setting out as fully as possible the charges, together with a copy of the board's findings and a statement that demand for the transcript had been made of the secretary more than five (5) days prior to the filing of the affidavit. Upon filing of this affidavit in the circuit court, the case shall be docketed in that court and the court may compel the filing of the transcript by the secretary by entering proper mandatory order, and upon failure of the secretary to do so, he shall be liable to fine and imprisonment for contempt. Such appeal shall have precedence over other business and be determined speedily.

(4)[~~(6)~~] An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases, in any controversy arising under this section.

(5)[~~(7)~~] Nothing in KRS 90.110 to 90.230 shall permit the suspension, dismissal, or demotion of any employe subject to the provisions of KRS 90.110 to 90.230 on account of religious faith, race, color, creed, or

political affiliation.

(6) Discipline of police officers shall be in accordance with the procedures set forth in Sections 1 to 8 of this Act.

Section 18. KRS 90.360 is amended to read as follows:

(1) *Except for police officers,* no employe in the classified service of a city of the second or third class shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude, or, in a city of the third class, violation of any rule adopted by the city legislative body or civil service commission, *unless the procedures set out in this section are complied with.*

(2) Any person may prefer charges in writing against any employe by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employe whom he believes guilty of conduct justifying his removal. Upon the filing of charges the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employe with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employe. The day on which the charges are served on the accused employe shall count as one (1) of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.

(3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The accused employe shall have the right to have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employe without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents (50) to the city clerk by the employe. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or the appointing authority has probable cause to believe an employe has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employe from duty or from both pay and duty pending trial and the employe shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employe found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employe's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employe shall be reprimanded, removed, suspended or dismissed except as provided in this section.

(7) No police officer shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property except in accordance with the procedures set forth in Sections 1 to 8 of this Act.

Section 19. KRS 95.450 is amended to read as follows:

(1) Except as provided in subsection (5) of this section no member of the [~~police or~~] fire department in cities of the second and third classes or urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the legislative body, and only after charges are preferred and a hearing conducted as provided in this section.

(2) Any person may prefer charges against a member of the [~~police or~~] fire department by filing them with the clerk of the legislative body who shall immediately communicate the same to the legislative body. The mayor shall, whenever probable cause appears, prefer charges against any member whom he believes guilty of conduct justifying his dismissal or punishment. The charges shall be written and shall set out clearly the charges made. The person preferring the charges may withdraw them at any time prior to the conclusion of the hearing. The charges may thereupon be dismissed.

(3) Upon the hearing all charges shall be considered traversed and put in issue, and the trial shall be confined to matters related to the issues presented. Within three (3) days after the charges have been filed with the legislative body, that body shall proceed to hear the charges. At least two (2) days before the hearing the member accused shall be served with a copy of the charges and a statement of the day, place and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges

and demand trial within three (3) days after the charges are filed with the clerk.

(4) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by the clerk of that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The member accused may have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(5) When the appointing authority or the head of the department has probable cause to believe a member of the [~~police or~~] fire department has been guilty of conduct justifying dismissal or punishment, he or it may suspend the member from duty or from both pay and duty, pending trial, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuances granted without the consent of the member accused.

(6) The legislative body shall fix the punishment of a member of the [~~police or~~] fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two (2) or more of those punishments, or by dismissal from the service.

(7) No member of the police department in cities of the second and third classes or urban-county government shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property except in accordance with the procedures set forth in Sections 1 to 8 of this Act.

Section 20. KRS 95.460 is amended to read as follows:

(1) Any member of the [~~police or~~] fire department in cities of the second and third classes or urban-county governments found guilty by the legislative body of any charge, as provided by KRS 95.450, may appeal to the circuit court of the county in which the city or urban-county government is located, but the enforcement of the judgment of the body shall not be suspended pending appeal. The notice of the appeal shall be filed not later than thirty (30) days after the date the legislative body makes its determination on the charge.

(2) Upon request of the accused the clerk of the legislative body shall file a certified copy of the charges and the judgment of that body in the circuit court. Upon the transcript being filed the case shall be docketed in the circuit court and tried as an original action.

(3) If the clerk fails to certify the transcript to the circuit court within seven (7) days after the request is made, the party aggrieved may file an affidavit in the circuit court setting out as fully as possible the charges made, the time of the hearing, and the judgment of the legislative body, together with a statement that demand for transcript was made upon the clerk more than five (5) days before the filing of the affidavit. Upon the filing of the affidavit in the circuit court the case shall be docketed and the circuit court may compel the filing of the transcript by the clerk by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.

(4) An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases.

Section 21. KRS 95.765 is amended to read as follows:

(1) No member of the [~~police or~~] fire *department* [~~departments~~] shall be removed from the department or reduced in grade upon any reason except inefficiency, misconduct, insubordination or violation of law, or violation of the rules adopted for the *department* [~~departments~~]. Any person may prefer charges against a member of the [~~police or~~] fire *department* [~~departments~~], which must be filed in the office of the mayor, who shall thereupon communicate said charges without delay to the legislative body. Said charges must be written, signed by the person making such charges and must set out with clearness and distinctness each and every charge. It shall be the duty of the mayor and each member of the legislative body, whenever probable cause appears, to prefer charges against any member of the [~~police or~~] fire *department* [~~departments~~] whom he or she believes to have been guilty of any conduct justifying his removal or punishment in the interest of public order. The charges thus filed shall be written and shall set out with distinctness and clearness the charges made, and upon the hearing of any charges, as hereinafter provided, all said charges shall be considered traversed, and put in issue, and the trial shall be confined to matters related to the issue so presented. All charges against members of the [~~police or~~] fire *department* [~~departments~~] shall be filed with the clerk of the legislative body, and within three (3) days after said filing the legislative body shall proceed to hear and examine said charges; Provided two (2) days before said hearing the member of the [~~police or~~] fire *department* [~~departments~~], accused, has been served with a copy of said charges, and a statement of the day, place and hour at which and when the hearing of said charges shall begin. The person accused may, however, in writing, waive the service of said charges, and demand trial within three (3) days after said charges are filed with the clerk of said legislative body. The legislative body will have the power to summon and compel the

attendance of witnesses at all hearings or sittings by said body, upon subpoena issued by the clerk of said body, and served upon said witnesses by any officer authorized to serve subpoenas from any court of justice in the county. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The member of the [~~police or~~] fire department, the accused, shall have the right to have subpoenaed, in his behalf, any witness he may desire, upon furnishing their names to the clerk of said body, and the action and decision of said body on said charges shall be reduced to writing and shall be entered in a book to be kept for that purpose by the clerk of said legislative body, and the written charges filed in this matter shall be preserved and securely attached to the book containing the legislative body's decisions.

(2) In cases where the mayor or chief has probable cause to believe that a member of the [~~police or~~] fire department has been guilty of any conduct justifying removal or punishment, he may suspend said member from duty, or from both pay and duty, pending said trial, and said member shall not be placed on duty or allowed pay thereafter until the charges are heard by the legislative body. The said body shall fix punishment against a member of the [~~police or~~] fire *department* [~~departments~~] found guilty of any charge under KRS 95.761 to 95.785, by reprimand or suspension for any length of time in their judgment, not to exceed six (6) months, or by reducing the grade, if the accused be chief or other officer, or by combining any two (2) or more of said punishments, or by removal or dismissal from the service of any such member of the [~~police or~~] fire department. No member of the [~~police or~~] fire department except as provided in KRS 95.761 to 95.785 shall be reprimanded, removed, suspended, or dismissed from the department until written charges have been made, or preferred against him, and a trial had as herein provided.

(3) No member of the police department shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property except in accordance with the procedures set out in Sections 1 to 8 of this Act.

Section 22. KRS 95.766 is amended to read as follows:

(1) Any member of the [~~police or~~] fire *department* [~~departments~~] who shall be found guilty by the legislative body of any charge as hereinbefore provided, may bring an action in the circuit court of the county in which said city may be located to contest the action of that body.

(2) Upon the request of the party accused, the clerk of said body shall file a certified copy of the charges made and the judgment or the findings of the said body in the circuit court; which transcript having been filed, the cause shall be docketed in the circuit court and tried as an original action by the judge of said court. Should the clerk of said body fail to certify and transmit the transcript aforesaid to the circuit court within five (5) days after the request is made for same, then the party aggrieved may file an affidavit in the said circuit court, setting out as fully as possible the charges made, the time of trial by said court and the judgment of said body, together with the statements of the facts that the demand for transcript had been made upon the clerk of said body more than five (5) days before the filing of said affidavit. Upon the filing of said affidavit in the circuit court, said cause shall be docketed in said court and the circuit court is hereby authorized to compel the filing of said transcript by said clerk by entering the proper mandatory orders, and by fine and imprisonment, as in cases of contempt. Such action shall have precedence over other business and be taken up and determined speedily.

Section 23. KRS 78.990 is amended to read as follows:

Any person who shall knowingly violate any of the provisions of KRS 78.400 to *78.440* [~~78.460~~] shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or by imprisonment for a term not to exceed six (6) months or by both such fine and imprisonment and if such person be an applicant for any employment covered hereby, he shall be excluded from such examination for a period of three (3) years thereafter and if the name of such person be on any eligible list of the said board, his name shall be removed therefrom and if he be an officer or employe of the county, he shall be removed forthwith therefrom and be ineligible for any such appointment to public office or employment for a period of three (3) years thereafter.

Section 24. KRS 16.055 is amended to read as follows:

(1) Promotions to sergeant within the *department* [~~bureau~~] shall be on the following terms and conditions:

(a) The applicant must have served as a commissioned state police officer for a period of five (5) years to be eligible for promotion to sergeant;

(b) Promotions shall be based on the highest cumulative score computed from thirty percent (30%) on personnel performance evaluation, twenty percent (20%) on oral examination, and fifty percent (50%) on a written examination;

(c) The promotional list shall continue in existence for one (1) year and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

(d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;

(e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);

(f) The oral examination shall be conducted by interview boards designated by the commissioner consisting of the commissioner or his designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky state police of the rank equal to the position for which the applicant is competing;

(g) The designated oral boards will perform all interviews under guidelines developed and approved by the commissioner;

(h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.

(2) Promotions from sergeant to lieutenant within the *department* [~~bureau~~] shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.

(3) Promotions from lieutenant to captain within the *department* [~~bureau~~] shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.

(4) The *department* [~~bureau~~] will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

(5) [~~The provisions of KRS 16.140 to the contrary notwithstanding,~~] All ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

(6) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) non-supervisory officers.

(7) No officer of the *department* [~~bureau~~], other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.

(8) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the *department* [~~bureau~~] promotional system. All personnel actions are to be based solely on merit.

Section 25. The following KRS sections are repealed:

15.520 Complaints against police officers -- Manner of investigation and hearing.

16.140 Discipline and removal of officers -- Grounds and procedure -- Removal of civilian employes -- Probationary period.

16.150 Appeal from disciplinary action or removal.

78.445 Disciplinary action by chief.

78.450 Disciplinary action by board.

78.455 Action of chief or board final -- Exceptions -- Appeals to courts, trial.

78.460 Board hearings to conform to due process of law -- Board may issue subpoenas and compel attendance of witnesses.

The Committee Substitute to **HB 119** is as follows:

HB 119, AN ACT relating to police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 95B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Adjudicating body" means that body authorized to hear evidence relating to a charge filed against a police officer, to determine the truth of said charge and to fix the degree and extent of any

punishment;

(2) "Complaint" means a written statement alleging improper conduct either of commission or omission;

(3) "Charge" means a statement alleging specific wrongdoing with an offer to prove the facts, and a request that the offender be punished;

(4) "Employed full time" means working as a sworn peace officer and being paid compensation by a hiring authority for working a uniform schedule;

(5) "Hiring authority" means the agency of government employing a person as a police officer;

(6) "Inefficiency" means conduct exhibiting a lack of ability, skill or capability to perform assigned duties according to acceptable police standards;

(7) "Insubordination" means the willful refusal or failure to comply with a lawful order of a superior officer;

(8) "Misconduct" means conduct or the use of language that is indecent, immoral, profane, obscene, slanderous, disrespectful, disloyal, threatening or defamatory, which is calculated or tends to subvert good order, efficiency or discipline, or which tends to discredit the police department;

(9) "Neglect of duty" means a failure to carry out some expected or required duty or action, either through carelessness or by intention;

(10) "Police officer" means a sworn peace officer who is employed full time by a lawfully organized police department of a city, county or urban-county government or any combination thereof in the Commonwealth of Kentucky and the Kentucky state police, with the exception of officers who are serving a probationary period which shall not exceed twelve (12) months from appointment, and chiefs of police;

(11) "Summary disposition" means the imposition of a penalty prior to any hearing by an adjudicating body.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

(1) No police officer, except for officers holding temporary or non-permanent ranks as provided in subsection (2), shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property for any reason except inefficiency, neglect of duty, misconduct, insubordination, negligence or violation of law or the rules adopted by the legislative body or governing board, and only after charges are preferred and a hearing is conducted as provided in Section 3 of this Act except as otherwise provided in this Act.

(2) Any officer holding a temporary or non-permanent rank may be reduced to the permanent rank he held prior to assuming the temporary or non-permanent rank without compliance with the provisions of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

Any person may file a complaint against a police officer with the chief of police. If a complaint is against the chief of police, the complaint shall be filed with the chief executive officer of the hiring authority. Any complaint taken from any individual alleging misconduct, neglect of duty, insubordination, neglect or violation of law or rule on the part of any police officer shall be taken under oath in the form of an affidavit, signed, and sworn to by the individual and notarized. Specifically excluded from the complaint requirements are corrective orders, duty critiques, duty performance directives, counseling and reprimands which are necessary, appropriate and consistent with management responsibilities in the daily functioning of a police department to assure compliance with established rules and regulations.

(1) No threats, promises, or coercion shall be used at any time against any police officer while he is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion.

(2) Upon receipt of a complaint the chief of police shall acknowledge receipt of the complaint in person or in writing to the complainant at the complainant's last known address. The acknowledgement shall state that the complaint will be investigated and that the complainant will be advised of the resolution of the matter.

(3) Upon receipt of a complaint the chief of police, or the chief executive officer of the hiring authority, in the event the complaint is against the chief of police, shall promptly conduct an investigation of the allegations contained in the complaint by appropriate administrative procedures. A complaint based on allegations of wrongdoing must be filed within three (3) months after the facts are alleged to have occurred, except where the alleged conduct would constitute a violation of law or in instances where the filing of a complaint has been inhibited by the officer. Pending an investigation of a complaint, and a final disposition, the chief of police, or the chief executive officer of the hiring authority, in the event the complaint is against the chief of police, may impose administrative suspension of police power of the officer or reassign the officer to other duties with pay.

(4) The chief of police or the chief executive officer of the hiring agency, in the event the complaint is against the chief of police, shall notify the complainant in writing what final disposition has been made of the

complaint.

(5) If as a result of an investigation of a complaint the chief of police or the chief executive officer of the hiring authority, where complaint is against the chief, has reasonable grounds for believing the allegations are true and has reasonable grounds for believing that such allegations constitute inefficiency, neglect of duty, misconduct, insubordination, negligence, or violation of law or of the rules adopted by the legislative body or governing board, the chief of police or the chief executive officer of the hiring authority, if the complaint is against the chief, may file formal charges or may impose summary discipline in the form of: (a) a written reprimand, or (b) suspension from duty for not more than thirty (30) working days without pay.

(6) A police officer who receives a written reprimand or who is suspended from duty without pay may appeal the summary disposition by filing a written statement of appeal with the chief executive officer of the hiring authority within seven (7) days after the date of the written formal notification. The appeal shall proceed as though formal charges had been filed.

(7) Written reprimands shall be expunged from a police officer's personnel records after two (2) years from the date of the reprimand and all records in a police officer's personnel file relating to other forms of disciplinary action shall be expunged from the officer's personnel file after five (5) years from the date of the action.

(8) Unless summary disposition is made or formal charges filed within sixty (60) days of the filing of a complaint, unless justifiable cause is given for the delay, further administrative disciplinary action based on the complaint shall be barred.

SECTION 4. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

(1) A police officer shall not be subjected to questioning nor be required to file a written response to a complaint after a complaint has been filed as provided in Section 3 of this Act until forty-eight (48) hours have expired from the time the request for questioning or request for a written response is made, unless the officer waives such time restrictions; however, such officer may be required to submit a written report of the alleged incident no later than the end of the tour of duty on which the incident is alleged to have occurred. Notice of the complaint and a summary of the allegations contained therein shall be furnished to the officer prior to questioning or prior to a request for a written response to the complaint.

(2) Any charge filed as the result of an investigation of a complaint or filed by the chief of police or hiring authority directly without a prior complaint shall be made in writing with specificity as to the nature and circumstances of the alleged violation. The original statement of charges shall be filed with the chief executive officer of the hiring authority and a copy shall be furnished to the officer against whom the charges are filed and the chairman of the adjudicating body.

(3) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any citizen, including but not limited to the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of criminal charges.

(4) When charges or a complaint have been filed against a police officer, no public statements shall be made concerning the charges or complaint by any person of the hiring authority, the police officer or his attorney except identification of the officer and the nature of the charges or complaint, until final disposition of the charges or complaint.

(5) No police officer as a condition of continued employment by a hiring authority shall be compelled to submit to a polygraph examination; speak or testify or be questioned by any non-governmental person or body.

SECTION 5. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

When a hearing is to be conducted by any adjudicating body, the following due process rights and procedures shall be recognized and these rights shall be the minimum rights afforded any police officer charged:

(1) The police officer shall have been given at least seven (7) calendar days' written notice by the chairman of the adjudicating body of the date, time and place of the hearing;

(2) Copies of any sworn statement or affidavits to be considered by the adjudicating body shall be furnished to the police officer no less than five (5) days prior to the time of the hearing;

(3) If the charges are based on a complaint, the individual who filed the complaint shall be subpoenaed to appear at the hearing;

(4) The police officer shall have the right and opportunity to be represented by counsel and to have counsel present;

(5) The police officer shall be allowed to present witnesses and other evidence, and to cross-examine any witnesses called by the hiring authority. The hiring authority by counsel shall also have the right to cross-examine all witnesses presented by the accused officer;

(6) Strict compliance with the Kentucky Civil and Criminal Rules of Procedure and the rules of

evidence shall not be required. The adjudicating body shall adopt rules of procedure to provide for an orderly hearing;

(7) If any police officer is not given a hearing as provided by this Act within sixty (60) days of any charges being filed, unless justifiable cause is given for the continuance, the charges shall be dismissed with prejudice and not be considered by any administrative adjudicating body. However, a police officer against whom charges have been filed may in writing agree to a postponement to a day certain;

(8) All time limits set out in this Act shall be calculated in accordance with KRS 446.030; and

(9) All hearings on charges before the adjudicating body shall be closed unless the officer requests an open hearing.

SECTION 6. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

(1) Any police officer who is found guilty by any adjudicating body of any charge, may appeal the decision of the body by filing a complaint in the circuit court of the county except that all appeals by officers of the state police shall be to Franklin Circuit Court. The appeal shall be taken within thirty (30) days of the date the adjudicating body renders its written decision, and the method of appeal shall follow the Rules of Civil Procedure. An appeal shall be an administrative appeal on the record and not a de novo trial on the merits of the case. The aggrieved officer shall have the burden of producing the transcript of evidence before the adjudicating body. The circuit court's review shall be limited to a determination of whether the adjudicating body acted arbitrarily and whether the evidence preponderates against such action. An appeal shall not suspend the penalty imposed by the adjudicating body pending a hearing and determination by the circuit court or any appellate court.

(2) The judgment of the circuit court shall be subject to appeal to the court of appeals. The procedure as to appeal shall be the same as in any civil action.

SECTION 7. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

Nothing contained in this Act shall be construed as limiting or in any way abridging additional rights afforded police officers by statute, ordinance, regulation, contract or other agreement.

SECTION 8. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

(1) For the Commonwealth, the adjudicating body shall consist of the commissioner of the bureau of state police and a panel of ten (10) officers of the bureau to be appointed by the commissioner; in a city of the first class the adjudicating body shall consist of the civil service board as organized under KRS 90.120; and for county police the adjudicating body shall consist of the county police force merit board as organized under KRS 78.440.

(2) Except as otherwise provided in subsection (1) of this section, a hiring authority may by ordinance or regulation, establish an adjudicating body for the purpose of conducting hearings and making final resolution of charges filed against police officers. If a hiring authority does not establish an adjudicating body, then the legislative body or governing board of the hiring authority shall conduct such hearings.

(3) An adjudicating body shall consist of not less than three (3) members selected from the legislative body or governing body of the hiring authority. Terms of office which shall be for fixed periods of time, and conditions of appointment shall be as provided by ordinance or regulation. The members of the adjudicating body shall elect one of its members as chairman. The adjudicating body shall keep full and complete minutes of its proceedings, including any evidence presented at any hearing.

(4) The adjudicating body shall conduct a hearing on all charges filed with it, including all appeals of summary dispositions filed with it pursuant to Section 3 of this Act and may adjourn or continue hearings from time to time until a matter brought before it is resolved. The adjudicating body shall be subject to and have the following authority:

(a) The body is authorized to subpoena and require the attendance of witnesses and the production by them of books, papers, records, and evidence (real or documentary) pertinent to an adjudication of issues before it. The subpoenas shall be issued by the chairman or in his absence any member of the adjudicating body and executed by those peace officers authorized to execute civil or criminal process. Requests for subpoenas shall be submitted in writing to the chairman of the adjudicating body not less than seventy-two (72) hours prior to the date of a hearing. In the event that any person should fail or refuse to appear under such subpoena, or to testify, or to attend, or to produce the books, papers, records, documents or other evidence lawfully required, the adjudicating body through its chairman may report to the circuit court judge or to the district court judge such failure or refusal, and apply for a rule, and said judge may, on such application, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court;

(b) Any member of the adjudicating body shall have the power to administer oaths to witnesses at any hearing conducted by the body; and

(c) The testimony heard during a hearing on charges filed shall be stenographically or electronically recorded.

(5) A majority of the adjudicating body shall constitute a quorum. A judgment may be entered only by a majority vote of the adjudicating body. Charges must be supported by a preponderance of evidence presented.

(6) The action and decision of the adjudicating body on each charge shall be reduced to writing and maintained together with a copy of the written charge.

SECTION 9. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

The chief of police in any city, county, or urban-county government which has established a police department shall be appointed for an indefinite term by the appointing authority and may be removed only by a majority vote of the legislative body. At least thirty (30) days before such removal shall become effective the legislative body shall by a majority vote of all its members adopt a preliminary resolution stating the reasons for his removal. The chief of police may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request. After the public hearing, if requested, and after full consideration, the legislative body by majority vote of all its members may adopt a final resolution of removal. By the preliminary resolution the legislative body may suspend the chief of police from duty, but shall in any event cause to be paid to him any unpaid balance of his compensation and compensation for the next calendar month following adoption of the preliminary resolution.

Section 10. KRS 16.160 is amended to read as follows:

No officer shall be suspended, reduced in rank or pay, or be discharged or dismissed, except as provided in *this Act* [~~KRS 16.140 and 16.150,~~] and with the further exception that when insufficient funds require a reduction in expenditures, the officer or officers junior in point of service shall be first discharged.

Section 11. KRS 67.323 is amended to read as follows:

(1) Any county may, by order of its fiscal court, duly made and entered of record, create a county fire department merit system, and for that purpose establish a county fire department merit board, whose duties it shall be to classify and examine applicants seeking employment as fire fighters or employes of the fire department of the said county, and, in addition, to promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, fine, suspension and other disciplinary action within the said county fire department of all personnel of the county fire department or departments affected as provided in this section and KRS 67.325 and 78.425, and, in addition thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected as provided in this section, KRS 67.325 and 78.425.

(2) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

(3) KRS 78.410 to *78.440* [~~78.460~~] and 78.990 shall be followed in the establishing of a county fire department merit system as provided in this section. All terms referring to the county police force, by context or definition, shall be taken to mean county fire department. Other terms mean:

(a) "Board" means the county fire department merit board created by subsection (1).

(b) "Chief" means the chief of the county fire department affected by this section, KRS 67.325 and 78.425.

(c) "Assistant chief" means the next in command to the chief of the county fire department affected by this section, KRS 67.325 and 78.425.

(d) "Secretary" means the executive secretary and examiner employed by the county fire department merit board created by this section, KRS 67.325 and 78.425.

(e) "Officer" means any member of the county fire department affected by this section, KRS 67.325 and 78.425.

(f) "Employe" means all other employes of the county fire department affected by this section, KRS 67.325 and 78.425.

(4) This section applies to counties containing a city of the second class which have not established county police merit systems as provided by KRS 78.400 to *78.440* [~~78.460~~] and 78.990.

Section 12. KRS 67.325 is amended to read as follows:

Any county may, by order of its fiscal court, duly made and entered of record, create a merit system for both the county police force and the county fire department, and for that purpose establish a single merit board for both. The board shall concurrently exercise the powers granted by KRS 67.323, 78.400 to *78.440* [~~78.460~~] and 78.990.

Section 13. KRS 78.405 is amended to read as follows:

(1) Any county of the commonwealth of Kentucky may, by order of its fiscal court, duly made and entered of record, create a county police force merit system, and for that purpose, establish a county police force merit board, whose duties it shall be to classify and examine applicants seeking employment as officers or employes of the police force of the said county, and in addition to promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, fine, suspension and other disciplinary action within the said county police force of all personnel of the county police force or forces affected and covered by KRS 78.400 to *78.440* [~~78.460~~] and 78.990, and in addition

thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected by KRS 78.400 to *78.440* [~~78.460~~] and 78.990.

(2) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

Section 14. KRS 78.425 is amended to read as follows:

(1) All police officers of whatever rank and title, and all employes of every county police force affected by KRS 78.400 to *78.440* [~~78.460~~] and 78.990 are covered by the provisions hereof. All such covered officers and employes of every county police force on active duty or service as of the effective date of a duly made and entered order of the fiscal court of the said county creating a county police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for their respective county police force without examination or further qualification, except and unless the chief of police of any county police force shall within sixty (60) days after the establishment of the board certify to the said board that any officer or employe is physically unfit to continue his or her duties.

(2) Where a merit system is established which covers a county fire department, the provisions of subsection (1) shall apply to the county fire department as they apply to the county police force.

(3) All personnel covered by the provisions (a) of KRS 78.400 to *78.440* [~~78.460~~], or (b) KRS 67.323, 67.325 and this section, or both, shall be deemed to be permanent employes subject to their ability to satisfactorily perform their respective duties and further subject to their good behavior.

Section 15. KRS 78.430 is amended to read as follows:

(1) Within ten (10) days after the creation of any board under KRS 78.400 to *78.440* [~~78.460~~], the county judge/executive shall certify to the board the names, rank, rate of pay, the seniority of every officer and employe on the police force as of the effective date of the fiscal court order creating the board.

(2) If there is a board in existence June 14, 1962, the county judge/executive shall within thirty (30) days certify the chief and assistant chief to the board.

Section 16. KRS 78.435 is amended to read as follows:

(1) No officer or employe covered by the provisions of KRS 78.400 to *78.440* [~~78.460~~] shall directly or indirectly solicit or receive or be in any manner whatever concerned in receiving, soliciting or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No person shall use or promise to use his personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 78.400 to *78.440* [~~78.460~~], as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 78.400 to 78.460 shall sign or execute or promise to sign or execute a resignation dated or undated in advance of such appointment or promotion. No officer or employe covered by the provisions of KRS 78.400 to *78.440* [~~78.460~~] shall be suspended, laid off, demoted, promoted, fined, disciplined or threatened, or in any way changed in rank, duty or compensation for withholding or neglecting to pay or make any contribution of any sort, or character, either in money, goods or services or anything of value for any political purpose whatsoever.

(3) No examination question in any examination held by the board shall relate to any political or religious opinion, belief, affiliation or service and no appointment, promotion, demotion, suspension, fine or removal shall be brought about, effected, affected or influenced by such opinions, beliefs, affiliations or services.

(4) No officer or employe covered by KRS 78.400 to *78.440* [~~78.460~~] shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) Nothing contained in KRS 78.400 to *78.440* [~~78.460~~] shall be so construed as to abridge the rights of any officer or employe with respect to his or her personal opinions or beliefs or right to vote.

Section 17. KRS 78.440 is amended to read as follows:

(1) Every county police force merit system board created hereunder shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, promotion, demotion, transfer, layoff, reinstatement, suspension, fine and removal of the officers and employes covered by KRS 78.400 to *78.440, except that a police officer may be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property only in accordance with the procedures set forth in Sections 1 to 8 of this Act* [~~78.460~~]. The board shall publish its rules and any amendments thereto by supplying a certified copy thereof to the county judge/executive, the fiscal court and the chief, and by posting a copy thereof conspicuously in the office or place where the headquarters of the county police is maintained. Said rules and amendments thereto shall be published in the manner prescribed within three (3) days after the adoption thereof.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) 1. Physical, mental, educational, citizenship and age requirements for new employes and officers.

2. Physical, mental, educational, citizenship and age requirements for new employes and officers and seniority requirements for promotion from lower to higher rank or classification.

3. A grade A patrolman must have three (3) years of service as a grade A patrolman before he may be

eligible for the promotion to the rank of sergeant. If there are fewer than fifty (50) police officers on the police force, the merit board may waive this service requirement.

(b) 1. Open competitive written, oral and physical tests to determine the relative fitness of all candidates and examinations for original appointment and for promotion.

2. Public notices of examinations provided in [~~subparagraph 1 of paragraph (b) and~~] subparagraph 2 of paragraph (a) of this subsection *and subparagraph 1 of this paragraph.*

(c) Temporary appointments in case of emergency.

(d) Organization and meetings of the board.

(e) Procedure and conduct of public hearings.

(3) No county police force merit system board shall adopt a rule requiring the retirement of officers or employes prior to the first day of the month following the officer or employe's fifty-eighth (58th) birthday. This subsection shall not prohibit retirement prior to age fifty-eight (58) on a voluntary basis.

(4) The board shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade and administer all written tests as required by the board. Said chief examiner shall report to the board the results of all tests given by him and he shall be solely responsible to the board. The chief examiner shall select a panel of four (4) members to conduct an oral examination of the applicants for promotion. The panel shall consist of two (2) persons of a supervisory capacity from the same classified service as the applicant and two (2) persons from an outside agency or agencies in the same field. The chief examiner shall compile the grades of all applicants based upon the percentages as set out below and shall deliver, in a sealed envelope, the scores of all applicants for promotion to the chairman of the board. The chief examiner shall not reveal to anyone the results of said tests other than in the manner set forth herein. If there are fewer than fifty (50) applicants for testing, the merit board may waive the requirements of this subsection and substitute other appropriate testing methods as determined by the board.

(5) Physical fitness for promotion is presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(6) At least ninety (90) days' notice shall be given before the promotional examination is conducted.

(7) The grading of promotional tests shall be as follows: fifty-five (55) per cent for written examination; thirty (30) per cent for oral examination; one (1) per cent for each year in seniority in grade, not to exceed fifteen (15) per cent.

Section 18. KRS 90.190 is amended to read as follows:

(1) Any suspension in excess of ten (10) days, dismissal or demotions of employes *other than police officers* in positions subject to the provisions of KRS 90.110 to 90.230 may be made only by the appointing authority upon the filing of written statements of the reasons of such suspension in excess of ten (10) days, or dismissals or demotions with the board, provided that copies of all such statements shall be furnished to the employes so suspended, dismissed, or demoted, on or before the effective date of such suspension, dismissal, or demotion, provided further that employes holding probationary appointments may be dismissed without the appointing authority being required to furnish either the board or the suspended, or dismissed, or demoted employe with a written statement of the reasons for such suspension, dismissal, or demotion. Any employe who has been suspended in excess of ten (10) days, dismissed, or demoted holding a regular appointment, shall be entitled, upon written demand, to a public hearing by the board, at which time he shall have the right to introduce evidence in his own behalf, and to be represented by counsel.

(2) The board shall investigate and determine the justification for all suspensions in excess of ten (10) days, or dismissals, or demotions, reported, or complained of, according to the provisions of this section. The board shall keep an accurate record of its proceedings under this section, including evidence presented at any public hearing. The board's order and findings shall be final subject to the right of appeal as set out in subsections (3) to (6) of this section. Enforcement of the suspension, dismissal or demotion shall not be suspended pending any proceeding or appeal provided in this section. Copies of the order and findings of the board shall be immediately delivered to the mayor, appointing authority, and to the suspended, dismissed, or demoted employe.

(3) Within twenty (20) days after the order of the board has been entered under subsection (2) *of this section*, any employe, who has been aggrieved by the order of the board, or the mayor or the appointing authority may appeal to the circuit court in the county in which the city is located in the following manner*:*[~~.~~]

(a)[~~(4)~~] Upon request in writing by the person making the appeal, and the payment of costs therefor, the secretary of the board shall file a certified copy of the record and the findings of that body in the circuit court. Upon the record being filed the case shall be docketed in the circuit court and tried de novo.

(b)[~~(5)~~] If the secretary fails to certify the record to the circuit court within five (5) days after the request is made, then the aggrieved person may file an affidavit in that court setting out as fully as possible the charges, together with a copy of the board's findings and a statement that demand for the transcript had been made of the secretary more than five (5) days prior to the filing of the affidavit. Upon filing of this affidavit in the circuit court, the case shall be docketed in that court and the court may compel the filing of the transcript by the secretary by entering proper mandatory order, and upon failure of the secretary to do so, he

shall be liable to fine and imprisonment for contempt. Such appeal shall have precedence over other business and be determined speedily.

(4)[~~(6)~~] An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases, in any controversy arising under this section.

(5)[~~(7)~~] Nothing in KRS 90.110 to 90.230 shall permit the suspension, dismissal, or demotion of any employe subject to the provisions of KRS 90.110 to 90.230 on account of religious faith, race, color, creed, or political affiliation.

(6) Discipline of police officers shall be in accordance with the procedures set forth in Sections 1 to 8 of this Act.

Section 19. KRS 90.360 is amended to read as follows:

(1) *Except for police officers,* no employe in the classified service of a city of the second or third class shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude, or, in a city of the third class, violation of any rule adopted by the city legislative body or civil service commission, *unless the procedures set out in this section are complied with.*

(2) Any person may prefer charges in writing against any employe by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employe whom he believes guilty of conduct justifying his removal. Upon the filing of charges the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employe with a statement of the date, place and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employe. The day on which the charges are served on the accused employe shall count as one (1) of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.

(3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The accused employe shall have the right to have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employe without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents (50) to the city clerk by the employe. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or the appointing authority has probable cause to believe an employe has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employe from duty or from both pay and duty pending trial and the employe shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employe found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employe's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employe shall be reprimanded, removed, suspended or dismissed except as provided in this section.

(7) No police officer shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property except in accordance with the procedures set forth in Sections 1 to 8 of this Act.

Section 20. KRS 95.450 is amended to read as follows:

(1) Except as provided in subsection (5) of this section no member of the [~~police or~~] fire department in cities of the second and third classes or urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the legislative body, and only after charges are preferred and a hearing conducted as provided in this section.

(2) Any person may prefer charges against a member of the [~~police or~~] fire department by filing them with the clerk of the legislative body who shall immediately communicate the same to the legislative body. The mayor shall, whenever probable cause appears, prefer charges against any member whom he believes guilty of conduct justifying his dismissal or punishment. The charges shall be written and shall set out clearly the charges made. The person preferring the charges may withdraw them at any time prior to the conclusion of

the hearing. The charges may thereupon be dismissed.

(3) Upon the hearing all charges shall be considered traversed and put in issue, and the trial shall be confined to matters related to the issues presented. Within three (3) days after the charges have been filed with the legislative body, that body shall proceed to hear the charges. At least two (2) days before the hearing the member accused shall be served with a copy of the charges and a statement of the day, place and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges and demand trial within three (3) days after the charges are filed with the clerk.

(4) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by the clerk of that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The member accused may have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(5) When the appointing authority or the head of the department has probable cause to believe a member of the [~~police or~~] fire department has been guilty of conduct justifying dismissal or punishment, he or it may suspend the member from duty or from both pay and duty, pending trial, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuances granted without the consent of the member accused.

(6) The legislative body shall fix the punishment of a member of the [~~police or~~] fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two (2) or more of those punishments, or by dismissal from the service.

(7) No member of the police department in cities of the second and third classes or urban-county government shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property except in accordance with the procedures set forth in Sections 1 to 8 of this Act.

Section 21. KRS 95.460 is amended to read as follows:

(1) Any member of the [~~police or~~] fire department in cities of the second and third classes or urban-county governments found guilty by the legislative body of any charge, as provided by KRS 95.450, may appeal to the circuit court of the county in which the city or urban-county government is located, but the enforcement of the judgment of the body shall not be suspended pending appeal. The notice of the appeal shall be filed not later than thirty (30) days after the date the legislative body makes its determination on the charge.

(2) Upon request of the accused the clerk of the legislative body shall file a certified copy of the charges and the judgment of that body in the circuit court. Upon the transcript being filed the case shall be docketed in the circuit court and tried as an original action.

(3) If the clerk fails to certify the transcript to the circuit court within seven (7) days after the request is made, the party aggrieved may file an affidavit in the circuit court setting out as fully as possible the charges made, the time of the hearing, and the judgment of the legislative body, together with a statement that demand for transcript was made upon the clerk more than five (5) days before the filing of the affidavit. Upon the filing of the affidavit in the circuit court the case shall be docketed and the circuit court may compel the filing of the transcript by the clerk by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.

(4) An appeal will lie from the judgment of the circuit court to the Court of Appeals as in other cases.

Section 22. KRS 95.765 is amended to read as follows:

(1) No member of the [~~police or~~] fire *department* [~~departments~~] shall be removed from the department or reduced in grade upon any reason except inefficiency, misconduct, insubordination or violation of law, or violation of the rules adopted for the *department* [~~departments~~]. Any person may prefer charges against a member of the [~~police or~~] fire *department* [~~departments~~], which must be filed in the office of the mayor, who shall thereupon communicate said charges without delay to the legislative body. Said charges must be written, signed by the person making such charges and must set out with clearness and distinctness each and every charge. It shall be the duty of the mayor and each member of the legislative body, whenever probable cause appears, to prefer charges against any member of the [~~police or~~] fire *department* [~~departments~~] whom he or she believes to have been guilty of any conduct justifying his removal or punishment in the interest of public order. The charges thus filed shall be written and shall set out with distinctness and clearness the charges made, and upon the hearing of any charges, as hereinafter provided, all said charges shall be considered traversed, and put in issue, and the trial shall be confined to matters related to the issue so presented. All charges against members of the [~~police or~~] fire *department* [~~departments~~] shall be filed with the

clerk of the legislative body, and within three (3) days after said filing the legislative body shall proceed to hear and examine said charges; Provided two (2) days before said hearing the member of the [~~police or~~] fire *department* [~~departments~~], accused, has been served with a copy of said charges, and a statement of the day, place and hour at which and when the hearing of said charges shall begin. The person accused may, however, in writing, waive the service of said charges, and demand trial within three (3) days after said charges are filed with the clerk of said legislative body. The legislative body will have the power to summon and compel the attendance of witnesses at all hearings or sittings by said body, upon subpoena issued by the clerk of said body, and served upon said witnesses by any officer authorized to serve subpoenas from any court of justice in the county. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The member of the [~~police or~~] fire department, the accused, shall have the right to have subpoenaed, in his behalf, any witness he may desire, upon furnishing their names to the clerk of said body, and the action and decision of said body on said charges shall be reduced to writing and shall be entered in a book to be kept for that purpose by the clerk of said legislative body, and the written charges filed in this matter shall be preserved and securely attached to the book containing the legislative body's decisions.

(2) In cases where the mayor or chief has probable cause to believe that a member of the [~~police or~~] fire department has been guilty of any conduct justifying removal or punishment, he may suspend said member from duty, or from both pay and duty, pending said trial, and said member shall not be placed on duty or allowed pay thereafter until the charges are heard by the legislative body. The said body shall fix punishment against a member of the [~~police or~~] fire *department* [~~departments~~] found guilty of any charge under KRS 95.761 to 95.785, by reprimand or suspension for any length of time in their judgment, not to exceed six (6) months, or by reducing the grade, if the accused be chief or other officer, or by combining any two (2) or more of said punishments, or by removal or dismissal from the service of any such member of the [~~police or~~] fire department. No member of the [~~police or~~] fire department except as provided in KRS 95.761 to 95.785 shall be reprimanded, removed, suspended, or dismissed from the department until written charges have been made, or preferred against him, and a trial had as herein provided.

(3) No member of the police department shall be dismissed, suspended, fined, reduced in pay or grade or required to make disposition for loss or damage to governmental property except in accordance with the procedures set out in Sections 1 to 8 of this Act.

Section 23. KRS 95.766 is amended to read as follows:

(1) Any member of the [~~police or~~] fire *department* [~~departments~~] who shall be found guilty by the legislative body of any charge as hereinbefore provided, may bring an action in the circuit court of the county in which said city may be located to contest the action of that body.

(2) Upon the request of the party accused, the clerk of said body shall file a certified copy of the charges made and the judgment or the findings of the said body in the circuit court; which transcript having been filed, the cause shall be docketed in the circuit court and tried as an original action by the judge of said court. Should the clerk of said body fail to certify and transmit the transcript aforesaid to the circuit court within five (5) days after the request is made for same, then the party aggrieved may file an affidavit in the said circuit court, setting out as fully as possible the charges made, the time of trial by said court and the judgment of said body, together with the statements of the facts that the demand for transcript had been made upon the clerk of said body more than five (5) days before the filing of said affidavit. Upon the filing of said affidavit in the circuit court, said cause shall be docketed in said court and the circuit court is hereby authorized to compel the filing of said transcript by said clerk by entering the proper mandatory orders, and by fine and imprisonment, as in cases of contempt. Such action shall have precedence over other business and be taken up and determined speedily.

Section 24. KRS 78.990 is amended to read as follows:

Any person who shall knowingly violate any of the provisions of KRS 78.400 to *78.440* [~~78.460~~] shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or by imprisonment for a term not to exceed six (6) months or by both such fine and imprisonment and if such person be an applicant for any employment covered hereby, he shall be excluded from such examination for a period of three (3) years thereafter and if the name of such person be on any eligible list of the said board, his name shall be removed therefrom and if he be an officer or employe of the county, he shall be removed forthwith therefrom and be ineligible for any such appointment to public office or employment for a period of three (3) years thereafter.

Section 25. KRS 16.055 is amended to read as follows:

(1) Promotions to sergeant within the *department* [~~bureau~~] shall be on the following terms and conditions:

(a) The applicant must have served as a commissioned state police officer for a period of five (5) years to be eligible for promotion to sergeant;

(b) Promotions shall be based on the highest cumulative score computed from thirty percent (30%) on personnel performance evaluation, twenty percent (20%) on oral examination, and fifty percent (50%) on a written examination;

(c) The promotional list shall continue in existence for one (1) year and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

(d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;

(e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);

(f) The oral examination shall be conducted by interview boards designated by the commissioner consisting of the commissioner or his designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky state police of the rank equal to the position for which the applicant is competing;

(g) The designated oral boards will perform all interviews under guidelines developed and approved by the commissioner;

(h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.

(2) Promotions from sergeant to lieutenant within the *department* [~~bureau~~] shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.

(3) Promotions from lieutenant to captain within the *department* [~~bureau~~] shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.

(4) The *department* [~~bureau~~] will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

(5) [~~The provisions of KRS 16.140 to the contrary notwithstanding,~~] All ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

(6) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) non-supervisory officers.

(7) No officer of the *department* [~~bureau~~], other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.

(8) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the *department* [~~bureau~~] promotional system. All personnel actions are to be based solely on merit.

Section 26. The following KRS sections are repealed:

15.520 Complaints against police officers -- Manner of investigation and hearing.

16.140 Discipline and removal of officers -- Grounds and procedure -- Removal of civilian employes -- Probationary period.

16.150 Appeal from disciplinary action or removal.

78.445 Disciplinary action by chief.

78.450 Disciplinary action by board.

78.455 Action of chief or board final -- Exceptions -- Appeals to courts, trial.

78.460 Board hearings to conform to due process of law -- Board may issue subpoenas and compel attendance of witnesses.

HB 351, AN ACT changing the classification of the City of Crittenden in Grant County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Crittenden, in Grant County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Crittenden, in Grant County, is transferred from the sixth to the fifth class of cities.

HB 358, AN ACT changing the classification of the City of Anchorage in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Anchorage, in Jefferson County, is such as to justify its being classified as a city of the fourth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Anchorage, in Jefferson County, is transferred from the fifth to the fourth class of cities.

HB 387, AN ACT changing the classification of the City of Park City in Barren County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Park City, in Barren County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Park City, in Barren County, is transferred from the sixth to the fifth class of cities.

HB 411, AN ACT relating to annexation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.400 is amended to read as follows:

The boundaries of any city [~~other than a city of the first class~~] shall remain as established by law until changed as provided in KRS 81A.410 to 81A.470. The legislative body of any city [~~other than a city of the first class~~] may annex any *other* city or portion of any *other* city [~~of the second through sixth class~~], or unincorporated territory or reduce the boundaries of the city under the provisions of KRS 81A.430 and 81A.440.

Section 2. KRS 81A.430 is amended to read as follows:

Whenever a city desires to annex all or part of *another* [~~a~~] city [~~of the second, third, fourth, fifth or sixth class~~], the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. Such ordinance shall accurately define the boundary of the city or portion thereof proposed to be annexed, declaring it desirable to annex the city or portion thereof and providing that the question of annexation shall be submitted to the qualified voters of the city or portion thereof to be annexed at the next regular election. The mayor of the city proposing to annex shall certify the action of the city to the county clerk, who shall have prepared for presentation to the voters in the city or portion thereof proposed to be annexed, the question: "Are you in favor of annexing to the City of _______?" If a majority of those voting on the proposition favor annexation, the city proposing to annex shall pass an ordinance declaring the other city or portion thereof annexed, and that city or portion thereof shall then be a part of the annexing city.

Section 3. KRS 81A.480 is amended to read as follows:

The provisions of [~~KRS 81A.050 to 81A.070 and~~] KRS 81A.400 to 81A.470 shall apply in any annexation proceeding in which the annexing city has not adopted a final annexation ordinance by July 15, *1984* [~~1980~~].

Section 4. The following KRS sections are repealed:

81A.010 Annexation of unincorporated territory or reduction of territory by first-class city.

81A.020 Protest against annexation of unincorporated territory or reduction of territory by first-class city -- Trial -- Judgment.

81A.030 Annexation of another city by a first-class city.

81A.040 First-class city takes over rights and liabilities of city annexed.
81A.050 Annexation by city of first class -- Report required.
81A.060 Public hearings -- Authority of board of aldermen.
81A.070 Property tax in annexed area.

The Committee Amendment No. 1 to **HB 411** is as follows:

Amend printed copy of **HB 411**, on page 2, line 17, delete the figure "*1984*" and delete the brackets and strike throughs surrounding the figure "[~~1980~~]".

The Committee on Health and Welfare reported **HB 41** with Committee Substitute attached thereto, **HB 256** with Committee Amendment attached thereto, and **HB 421** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The following are subject to forfeiture:

(a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state.

(b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(d) All substances, machinery or devices used for the manufacture, packaging, repackaging, or marking, and books, papers and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband.

(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter.

(f) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.

(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection.

(h) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana.

(i) All books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this chapter.

(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable

instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent. It shall be a rebuttable presumption that all moneys, coin and currency found in close proximity to forfeitable controlled substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof is upon claimants of the property to rebut this presumption.

SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(2) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and removed it to an appropriate location for disposition in accordance with law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court.

(3) When property is forfeited under this chapter the law enforcement agency may:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance shall be paid to:

1. The county if the property was seized by the sheriff or an agency or peace officer of the county;

2. The city if the property was seized by the city or an agency or peace officer thereof;

3. The state treasurer, for deposit to the fund created in subsection (4) of this section, if the property was seized by an agency of the state or peace officer thereof;

4. Fifty percent (50%) of the proceeds shall be retained by the seizing local units of government, to be used for law enforcement activities, and fifty percent (50%) of the proceeds shall be paid to the state treasurer, for deposit to the fund created in subsection (4) of this section, if the property was seized by any combination of agencies listed above.

(4) All money or currency forfeited under paragraphs (3)(b)3. and 4. of this section shall be deposited in a trust and revolving fund which is hereby created. The Kentucky state police shall, in each fiscal year, receive the first one hundred thousand dollars ($100,000) deposited in the fund, with such monies to be used solely for enforcement activities relating to controlled substances. The cabinet for human resources shall, in each fiscal year, receive the remainder of the monies deposited in the fund, with such monies to be used solely for the purpose of drug and alcohol abuse education, prevention and treatment. The monies in this fund are intended to supplement any funds appropriated by the general assembly to the cabinet for human resources and the Kentucky state police for treatment and enforcement efforts.

SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Each law enforcement agency seizing money or property pursuant to this Act shall, at the close of each fiscal year, file a statement with the auditor of public accounts, a detailed listing of all money and property seized and the disposition thereof. The listing shall identify all property so seized.

(2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The attorney general shall institute civil actions for recovery of money or property obtained or retained in violation of this section.

Section 5. KRS 218A.270, Substances and property, subject to forfeiture -- Procedure and exemptions, is repealed.

The Committee Substitute to **HB 41** is as follows:

HB 41, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The following are subject to forfeiture:

(a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state.

(b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(d) All substances, machinery or devices used for the manufacture, packaging, repackaging, or marking, and books, papers and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband.

(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter.

(f) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.

(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection.

(h) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana.

(i) All books, records, and research products and materials, including formulas, microfilm, tapes and data which are used, or intended for use, in violation of this chapter.

(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds, including real and personal property, traceable to such an exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him to have been committed or omitted without his knowledge or consent. It shall be a rebuttable presumption that all moneys, coin and currency found in close proximity to forfeitable controlled substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof is upon claimants of the property to rebut this presumption.

SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS

FOLLOWS:

(1) Property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(2) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and removed it to an appropriate location for disposition in accordance with law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter the law enforcement agency may with the approval of the trial court and subject to the provisions of Section 5 of this Act:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance, except as provided in Section 5 of this Act, shall be paid to:

1. The county if the property was seized by the law enforcement agency of the county;

2. The city if the property was seized by the law enforcement agency of the city;

3. The state treasurer for the benefit of the Kentucky state police, except as provided in Section 5 of this Act, if the property was seized by the Kentucky state police;

4. When money or property is seized in a joint operation involving more than one (1) law enforcement agency the division of the money and property among the seizing agencies shall be made by the trial court.

SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

When seized property is retained for official use by law enforcement agencies under this chapter the value of the property shall be determined as follows:

(1) Vehicles shall be valued at their tax value;

(2) All other property shall be valued at its fair cash value by the property valuation administrator;

(3) Property shall be valued as of the time of transfer to the law enforcement agency.

SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The first one hundred thousand dollars ($100,000) of money from forfeitures and property, including amounts paid pursuant to paragraph (3)(b)2. of Section 3 of this Act, retained by law enforcement agencies of a city of the first class or of an urban-county government shall be retained by the city or urban-county government and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in Section 6 of this Act.

(2) The first one hundred thousand dollars ($100,000) of money from forfeitures and property including amounts paid pursuant to paragraph (3)(b)2. of Section 3 of this Act, retained by county law enforcement agencies in counties containing a city of the first class shall be retained by the county and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in Section 6 of this Act.

(3) The first one hundred thousand dollars ($100,000) of money from forfeitures and property including amounts paid pursuant to paragraph (3)(b)3. of Section 3 of this Act, retained by the Kentucky state police shall be retained by the state police and used solely for police purposes related to controlled substances.

Any forfeitures in excess of this amount shall revert to the fund created in Section 6 of this Act.

(4) The first fifty thousand dollars ($50,000) of money from forfeitures and property, including amounts paid pursuant to paragraph (3)(b)1. or 2. of Section 3 of this Act, retained by law enforcement agencies other than those specified in subsections (1) through (3) of this section shall be retained by the unit of government seizing such property and used solely for police purposes related to controlled substances. Any forfeitures in excess of this amount shall revert to the fund created in Section 6 of this Act.

(5) Money seized and money for all property sold by any other seizing law enforcement agency pursuant to this Act shall be deposited in the fund created by Section 6 of this Act.

(6) In calculating the forfeitures to be retained in subsections (1) through (4) of this section, the first forfeitures in any calendar year up to the amount specified in the applicable subsection shall be retained as provided in that subsection.

SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a trust and revolving fund in the executive branch of state government.

(2) The cabinet for human resources shall, in each fiscal year, receive the monies deposited in the fund under this Act, with such monies to be used solely for the purpose of drug and alcohol abuse education, prevention and treatment. The monies in this fund are intended to supplement any funds appropriated by the general assembly to the cabinet for human resources for drug and alcohol abuse education, prevention, and treatment efforts.

SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Each law enforcement agency seizing money or property pursuant to this Act shall, at the close of each fiscal year, file a statement with the auditor of public accounts, a detailed listing of all money and property seized and the disposition thereof. The listing shall identify all property so seized.

(2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The attorney general shall institute civil actions for recovery of money or property obtained or retained in violation of this section.

Section 8. KRS 218A.270, Substances and property, subject to forfeiture -- Procedure and exemptions, is repealed.

HB 256, AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.030 is amended to read as follows:

(1) Nothing in this chapter shall prevent students from performing dental *functions* [~~operations~~] under the supervision of competent instructors within the dental school, college or department of a university recognized by the board. The board may authorize the students of any dental college, school or department of a university to practice dentistry in any state or municipal institution or public school, or under the board of health, or in a public clinic or *in* a charitable institution.

(2) *Except as otherwise provided in subsection (3) of this section,* students shall be at all times under the direct supervision of a dentist licensed in this state, who is an instructor of the institution at which they are studying.

(3) The board may authorize a student of any dental college, school or university to perform dental functions in the private practice setting of a licensed dentist within this Commonwealth, provided the student is at all times under the direct supervision of a dentist licensed in the Commonwealth who is on the premises while supervising the student. No student shall perform dental functions in a private practice setting without a letter of authorization from the board. The board may authorize such practice on the recommendation and request of the student's dental college, school or university. The board may adopt regulations consistent with this section to further develop procedures to be followed.

Section 2. KRS 313.045 is amended to read as follows:

(1) The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who furnishes satisfactory proof that he is a graduate of, and has a diploma from, a reputable dental college, school or department of a university accredited in the manner provided by KRS 313.040, and who holds a license from a dental board similar to the board under requirements and standard equal to or higher than those of this state.

(2) No license shall be issued under this section unless the state or territory of the United States or the District of Columbia issuing the license referred to in this section affords similar privileges to a dentist of Kentucky holding a license from the board who removes to or desires to practice his profession in such state or territory of the United States or the District of Columbia.

(3) Where there is no reciprocity agreement, the board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who, for five (5) consecutive years next preceding the filing of his application, has been engaged in the active practice of dentistry; Provided, That he was legally authorized to practice dentistry in a state or territory of the United States or the District of Columbia; and, further provided, that his qualifications for such authorization were equal to or higher than those of this state. Actively engaging in the teaching of dentistry *may* [~~shall~~] be considered actively engaged in the practice of dentistry.

(4) The fee for reviewing the qualifications of an applicant under this section shall be fifty dollars ($50.00) and the fee for issuing a license certificate shall be ten dollars ($10.00).

Section 3. KRS 313.130 is amended to read as follows:

The board may revoke, *or* suspend or refuse to renew *or issue a* [~~the~~] license *to* [~~of~~] any dentist *or may reprimand a dentist or place him on probation* for any of the following causes:

(1) Conviction of *any* [~~a~~] felony or *conviction of a* misdemeanor involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(2) Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.

(3) Unprofessional conduct, gross ignorance or inefficiency in his profession or failure to accumulate a sufficient number of points for continuing dental education as prescribed by the board under the provisions of KRS 313.080.

(4) *Violating any of the provisions of this chapter or any lawful order, rule or regulation made or issued under the provisions of this chapter* [~~Failure or refusal to comply with the orders of the board issued pursuant to KRS 313.220~~].

(5) Addiction to a drug habit.

(6) Chronic or persistent alcoholism.

(7) *Such* physical or mental disability, or other condition, that continued practice would be dangerous to patients or to the public.

Section 4. KRS 313.140 is amended to read as follows:

Unprofessional conduct includes, but is not limited to, the following acts:

(1) Employing "cappers" or "steerers" to obtain business; or employing directly or indirectly any student, or any suspended or unlicensed dentist or other person to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malpositions or malformations thereof.

(2) Obtaining any fee by fraud or misrepresentation; wilfully betraying any professional secrets; habitual intemperance, gross immorality or the commission of a criminal operation[~~; advertising to use drugs, patents, nostrums or proprietary medicines;~~] or splitting fees.

(3) *Publication or circulation, directly or indirectly, of any false, fraudulent or misleading statements concerning the skill, methods or practices of himself or of any other person* [~~Advertising for dental patronage by means of circulars, handbills, posters, cards, stereoptican slides, radio, newspapers, telephone directory, television, motion pictures or public address systems; making use of any advertising statements of a character tending to deceive or mislead the public; advertising professional superiority or the performance of professional service in a superior manner; advertising prices for professional service; advertising credit or terms of credit; advertising by means of electric sign, illuminated sign, sign that sets forth more than the name, profession, title (such as D.D.S. or D.M.D.) and office hours of the dentist, sign more than six (6) inches in height, or display the lettering of which is more than six (6) inches in height; advertising by means of a sign or display that contains or is a representation or reproduction of a tooth, bridgework or any portion of the human head; advertising free dental work or free examinations or advertising to guarantee any dental service or to perform any dental operation or act painlessly; or employing or make use of advertising solicitors or free publicity press agents~~].

(4) *Advertising in any manner which tends to deceive or defraud the public.*

(5) Unprofessional conduct does not include the use of professional cards that contain only a name, title (such as D.D.S. or D.M.D.), address, telephone number and office hours. It is unprofessional conduct for any dentist to announce or hold himself out to the public as being especially qualified in any branch of dentistry without having obtained a license as a specialist therein from the board.

(6) Advertising dental services not in conformity with Section 16 of this Act.

Section 5. KRS 313.150 is amended to read as follows:

(1) The board shall, before taking any action as permitted under KRS 313.130, set the matter down for a hearing and at least thirty (30) days prior to the date set for the hearing notify the licensee, in writing, of the hearing.

(2) The written notice to the licensee shall contain an exact statement of the charges made, a copy of the complaint made and notice of the date, time and place of the hearing. The board shall include with the notice an order requiring the appearance of the licensee at the date, time and place of the hearing.

(3) Notice may be served on the licensee by personally delivering the notice to the licensee or by

mailing the notice by certified mail, return receipt requested, to the last known business or home address of the licensee.

(4) The board may in its discretion order the licensee to respond in writing to the allegations contained in the complaint prior to the date of the hearing.

(5) All complaints filed with the board shall be in writing, verified by an individual familiar with the facts charged therein.

(6) Complaints may be based on information held by individuals not members of the board or on information held by members of the board. If a complaint is based on information held by a member of the board then that member shall not sit on the board to consider the accusations, but the other members shall constitute the board for purposes of judging the accused [~~Proceedings to revoke or suspend a license may be taken by the board from the matters within its knowledge or upon the information of another. If the informant is a member of the board, the other members shall constitute the board for the purpose of judging the accused. Every accusation shall be in writing, verified by some person familiar with the facts charged in it. Three (3) copies shall be filed with the secretary-treasurer of the board. Upon receiving the accusation the board shall, if it considers it sufficient, make an order setting the accusation for hearing at a specified time and place, and requiring the accused to appear and answer it. The secretary-treasurer shall cause a copy of the order and accusation to be served upon the accused at least ten (10) days before the day appointed in the order for the hearing~~].

Section 6. KRS 313.160 is amended to read as follows:

(1) The complainant and the respondent shall have the opportunity to be heard in person and to be represented by counsel.

(2) The board, complainant and the respondent shall have the right to have the benefit of counsel at all hearings.

(3) The board may compel witnesses to attend before it, or compel the production of any documents or materials before it, as in civil cases by supoena issued over the signature of the president of the board and the seal of the board in the name of the state. The board may issue such other orders as it deems appropriate to facilitate any hearing under this section.

(4) In cases of disobedience of the subpoena, any member of the board may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and the production of papers or other materials; and such court may issue an order requiring the person to appear before the board and give evidence and to produce documents and other materials as the case may be; and any failure to obey such order of the court may be punished by the court as contempt thereof.

(5) The board, or any member thereof, may administer oaths and the board and the respondent may take depositions of witnesses as in civil cases.

(6) The board shall not be bound by the technical rules of evidence, but the order of the board shall be based on competent evidence.

(7) The board in its discretion may appoint a hearing officer to preside at designated hearings. The hearing officer shall hear the evidence and make findings of fact, conclusions of law and a recommendation to the board for the board's consideration. The board shall then make its determination.

(8) The board shall furnish the licensee with a statement of its findings of fact and conclusions of law on which disciplinary action is based [~~The person accused under KRS 313.150 shall appear at the time appointed in the order, answer the charges and make his defense, unless for sufficient cause the board assigns another day for that purpose. If he does not appear the board may proceed and determine the accusation in his absence. If the accused pleads guilty or refuses to answer the charges, or if upon the hearing the board finds any of them true, it may proceed to a judgment of either revoking his license or suspending it. The board and the accused may have the benefit of counsel. The board may administer oaths, take the depositions of witnesses as in civil cases and compel them to attend before it in person as in civil cases by subpoena issued over the signature of the secretary-treasurer and the seal of the board and in the name of the state~~].

Section 7. KRS 313.180 is amended to read as follows:

(1) A licensee *against whom the board has taken disciplinary action* [~~whose license has been revoked by the board~~] may appeal from *such order within thirty (30) days of* the *date of the final* [~~revocation~~] order [~~within thirty (30) days~~] of the *board* [~~cancellation of his license~~]. The appeal shall be to the circuit court of the county in which the board met, *the circuit court of the county in which the licensee resides or practices, or the Franklin circuit court, at appellant's discretion* [~~to revoke the license~~]. [~~Any person who takes such an appeal shall serve upon the secretary-treasurer, a written notice of the appeal, and shall file in the office of the secretary-treasurer, an appeal bond with good and sufficient surety, to be approved by the secretary-treasurer, to the state, conditioned for the speedy prosecution of the appeal and the payment of any costs charged against him upon the appeal.~~]

(2) The secretary-treasurer *of the board*, within ten (10) days after the service of notice of appeal [~~and the filing and approval of the bond~~], shall transmit to the clerk of the circuit court to which the appeal is taken [~~a~~] certified *copies* [~~copy~~], under the seal of the board[~~,~~] of*:*

(a) The *complaint* [~~accusations~~] on which the *action* [~~revocation~~] was based*;*

(b) All evidence; and

(c) The findings of fact and conclusions of law on which the decision of the board is based. The appellant shall file with the circuit court a bond with sufficient surety approved by the circuit court clerk to cover payment of any costs charged against the appellant on appeal [~~and the ground for appeal, together with the notice and bond of appeal. The clerk of the circuit court shall docket the case, and it shall be tried in all respects like an ordinary civil action~~].

(3) The review by the circuit court shall not be de novo, but shall be limited to the findings of fact of the board and the evidence presented to the board. The judiciary of the Commonwealth of Kentucky who may be caused to review the actions of the board shall modify, remand or otherwise disturb those actions only in the event;

(a) That the action of the board constitutes a clear abuse of its discretion;

(b) That the action of the board is clearly beyond its legislative delegated authority;

(c) That the action of the board violated the statutory procedure for disciplinary hearings; or

(d) That the disciplinary action imposed was clearly not commensurate with the violation.

(4) Either party may appeal from the judgment of the circuit court to the Court of Appeals [~~as~~] in *the manner prescribed by the Kentucky Rules of Civil Procedure* [~~a civil action. The judgment shall be stayed from the date of the approval of the bond until final determination of the appeal~~].

Section 8. KRS 313.220 is amended to read as follows:

(1) The board shall administer this chapter. It may make regulations for its own conduct and procedure, and provide for affiliation with the American Association of Dental Examiners. It may select the subjects and the standard of proficiency and percentage for examinations to practice dentistry, and it shall conduct the examinations of all applicants for a license under the provisions of this chapter.

(2) The board shall make a report of its proceedings to the governor by February 1 of each year, showing all money received and disbursed by it pursuant to this chapter for the preceding *year* [~~years~~] ended December 31.

(3) The board may employ attorneys to advise and assist it in enforcing this chapter, and pay them a reasonable compensation for such work.

(4) The board may, subject to the provisions of this chapter, regulate the practice of dentistry and the use of dental auxiliary personnel in this state.

(5) The board may employ *an executive director and* such assistants, inspectors, investigators, clerks, and other persons as it deems necessary to enforce this chapter. It may authorize any of such employes to make investigations and report to the board with respect to any violation of any of the provisions of this chapter or any regulation or order of the board, to inspect any dental office or place where dental operations are performed and to deliver or transmit to any holder of a license under this chapter any order of the board with respect to the licensee's performance of his work under the authority of such license. If any holder of a license under this chapter fails or refuses to admit any such representative of the board for the purpose of making any such examination or inspection or if any holder of any such license fails or refuses to comply with any order or direction of the board, such failure or refusal shall be reported to the board for whatever disciplinary action it deems appropriate, including revocation of any license if such failure or refusal is deemed by the board to be material.

(6) Any representative of the board performing any of the duties referred to in this section shall be furnished with a copy, certified by the secretary-treasurer, of the order of the board pursuant to which he is performing such duties.

Section 9. KRS 313.247 is amended to read as follows:

(1) *Any* [~~No~~] dentist *using* [~~shall use~~] the services of any *facility or* person *certified by the board as a dental laboratory or dental laboratory technician* [~~not licensed to practice dentistry in this state~~] to construct, alter, repair or duplicate any denture, plate, bridge, splint, orthodontic or prosthetic appliance, *shall* [~~without~~] first *furnish such dental laboratory or dental laboratory technician* [~~furnishing such unlicensed person~~] a written laboratory procedure work order, *specifically naming the dental laboratory or dental laboratory technician who is to complete the work,* on forms prescribed by the board. Such *dental laboratory or dental laboratory technician* [~~unlicensed person~~] shall retain the original laboratory procedure work order, and the dentist shall retain a duplicate copy, for two (2) years from the date thereof. All such laboratory procedure work orders required by this subsection shall be open for inspection by the board.

(2) If the *laboratory* [~~person~~] receiving a laboratory procedure work order from a licensed dentist engages another *laboratory* [~~person~~] to perform any of the services relative to such laboratory procedure work order, such other *laboratory* [~~person~~] shall furnish a written work order with respect thereto on forms prescribed by the board. Such *laboratory* [~~person~~] shall retain the original work order, and the *laboratory* [~~person~~] issuing such work order shall retain a duplicate copy for two (2) years from the date thereof. All such work orders required by this subsection shall be open for inspection by the board.

(3) Nothing in this section or KRS 313.020 shall prevent a licensed dentist having a technician working exclusively for him from doing laboratory work under his direction within the confines of his office without a laboratory procedure work order.

(4) No dentist shall use the services of any person not certified by the board as a dental laboratory or dental laboratory technician to construct, alter, repair or duplicate any denture, plate, bridge, splint, orthodontic or prosthetic appliance. No dentist shall deliver a work order for the fabrication or repair of any prosthetic appliance, material or device directly to a patient except for shade selection. No dental laboratory or dental laboratory technician shall deliver any prosthetic appliance, material or device directly to a patient, or provide any direct services to patients.

Section 10. KRS 313.330 is amended to read as follows:

[~~(1)~~] The board may, upon complaint or upon its own motion, after a hearing, and after *thirty (30)* [~~ten (10)~~] days' notice, in writing, to the licensee of the time and place of hearing, revoke, [~~or~~] suspend, [~~or~~] refuse to renew, *probate or suspend* the license of any dental hygienist by entering an order to that effect, together with its findings in respect thereto, if it shall be determined that such licensee:

(1)[~~(a) Has violated any of the provisions of KRS 313.260 to 313.350 or any regulation made thereunder; or~~
~~(b)~~] Has made a material false statement in his application for examination; or

(2)[~~(c)~~] No longer possesses good moral character; or

(3)[~~(d)~~] Directly or indirectly advertises or solicits for dental hygiene business; or

(4)[~~(e)~~] Is grossly negligent in his profession*; or*

(5) Has violated any provision of this chapter or any lawful order, rule or regulation made or issued under the provisions of this chapter.

[~~(2) In any proceeding to revoke, suspend or refuse to renew the license of any licensee a certified copy of any order entered by the board shall immediately be delivered or sent to the licensee by certified mail, return receipt requested at his last known address.~~]

SECTION 11. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The board shall, before taking any action as permitted under KRS 313.330, set the matter down for a hearing and at least thirty (30) days prior to the date set for the hearing notify the licensee, in writing, of the hearing.

(2) The written notice to the licensee shall contain an exact statement of the charges made, a copy of the complaint made and notice of the date, time and place of the hearing. The board shall include with the notice an order requiring the appearance of the licensee at the date, time and place of the hearing.

(3) Notice may be served on the licensee by personally delivering the notice on the licensee or by mailing the notice by certified mail, return receipt requested, to the last known business or home address of the licensee.

(4) The board may in its discretion order the licensee to respond in writing to the allegations contained in the complaint prior to the date of the hearing.

(5) All complaints filed with the board shall be in writing, verified by an individual familiar with the facts charged therein.

(6) Complaints may be based on information held by individuals not members of the board on information held by members of the board. If a complaint is based on information held by a member of the board then that member shall not sit on the board to consider the accusations, but the other members shall constitute the board for purposes of judging the accused.

(7) The accused shall have the opportunity to be heard in person and to be represented by counsel.

(8) The board shall have the right to have the benefit of counsel at all hearings.

(9) The board shall have the authority to order by subpoená the attendance of any witness or the production of any documents or other materials. The board may issue such other orders as it deems appropriate to facilitate any hearing under this section.

(10) In cases of disobedience to the subpoena any member of the board may invoke the aid of any court of competent jurisdiction to require the attendance and testimony of witnesses and the production of papers or other materials; and such court may issue an order requiring the persons to appear before the board and give evidence and to produce papers or other materials as the case may be; and any failure to obey such order of the court may be punished by the court as contempt thereof.

(11) The board, or any member thereof, may administer oaths and the board and the accused may take depositions of witnesses as in civil cases.

(12) The board shall not be bound by the technical rules of evidence, but the order of the board shall be based on competent evidence.

(13) The board in its discretion may appoint a hearing officer to preside at designated hearings. The hearing officer shall hear the evidence and make findings of fact, conclusions of law and a recommendation to the board for the board's consideration. The board shall then make its determination.

(14) The board shall furnish the licensee with a statement of its findings of fact and conclusions of law on which disciplinary action is based.

Section 12. KRS 313.340 is amended to read as follows:

(1) A [~~Any~~] licensee *against whom disciplinary action has been taken* [~~aggrieved by an order of the~~

~~board~~] may *appeal from such order* [~~,~~] within thirty (30) days *of* [~~from~~] the date of *the final* [~~entry of said~~] order *of the board* [~~, appeal to the circuit court in and for the county in which was held the meeting of the board at which the action of the board complained of was taken~~]. *The appeal shall be to the circuit court of the county in which the board met, the circuit court of the county in which the licensee resides or practices, or the Franklin circuit court, at appellant's discretion.*

(2) [~~In case a person desires to take such an appeal he shall file with~~] The *secretary-treasurer* [~~clerk~~] of the *board* [~~circuit court to which the appeal is taken a petition setting forth the grounds of appeal~~], *within ten (10) days after the service of notice of* [~~and shall file with said clerk an~~] appeal [~~bond with good and sufficient security~~], *shall transmit* to *the* [~~be approved by said~~] clerk *of the circuit court* [~~,~~] to *which the appeal is taken certified copies, under* the *seal of* [~~state of Kentucky, conditioned for~~] the *board,* [~~speedy prosecution~~] of [~~such appeal, and~~] the *complaint on which the action was based, the transcript of evidence and the findings of fact and conclusions of law on which the decision of the board is based* [~~payment of such costs as may be charged against him upon such appeal~~]. [~~Summons on such an appeal shall be issued and may be served on~~] The *judiciary* [~~president or secretary~~] of the *Commonwealth* [~~board in any county in this state where either~~] of *Kentucky who* [~~them~~] may be *caused to review the actions of the board shall modify, remand or otherwise disturb those actions only in the event:*

(a) That the action of the board constitutes a clear abuse of its discretion;

(b) That the action of the board is clearly beyond its legislative delegated authority;

(c) That the action of the board violated the statutory procedure for disciplinary hearings; or

(d) That the disciplinary action imposed was clearly not commensurate with the violation [~~found~~]. [~~Within ten (10) days after~~] The *party appealing* [~~service of summons on such appeal, the secretary~~] shall *place sufficient bond with* [~~transmit to~~] the *circuit court* clerk [~~of the circuit court,~~] to *cover payment* [~~which said appeal is taken, a certified copy, under the seal~~] of *any costs charged against him on appeal* [~~the board, of all evidence considered and orders entered by the board in connection with said proceeding~~].

(3) [~~The clerk of such court shall thereupon docket such appeal. The court shall only hear and consider such documentary and other evidence as was heard and considered by the board, and that is contained in the transcript upon which the appeal is taken.~~] Either party may appeal from the judgment of the circuit court to the Court of Appeals [~~in the manner as civil actions may be appealed thereto~~]. The *judgment* [~~order of the board appealed from~~] shall be stayed from the date of the approval of *the* [~~said~~] bond until final determination of the appeal.

Section 13. KRS 313.470 is amended to read as follows:

All fees imposed and collected under the provisions of KRS 313.400 to 313.470 and subsection *(6)*[~~(7)~~] of KRS 313.990, shall be disposed of in the same manner as is provided in KRS 313.350 for fees imposed and collected under the provisions of KRS 313.260 to 313.340.

Section 14. KRS 313.510 is amended to read as follows:

(1) There is hereby created a dental laboratory advisory commission which shall be composed of six members appointed by the board from a list of registered dental laboratory owners and managers and registered dental laboratory technicians selected by registered dental laboratory owners and managers and registered dental technicians as hereafter provided. Four members of the commission shall be dental laboratory owners or managers and two members shall be dental laboratory technicians who are not dental laboratory owners or managers. The members of the commission shall serve four-year staggered terms. Of the first members appointed to such board, three shall serve for two years, and three shall serve for four years. The length of each term of those initially appointed shall be designated by the board at the time of appointment.

(2) Each member of the commission shall be appointed from a list of two nominees for each appointment, certified to the board by the laboratory association as qualified for such appointment.

(3) [~~The commission shall advise the board on all matters concerning dental laboratories and dental laboratory technicians; and~~] The board shall refer, *in writing,* to the commission all matters concerning rules, fees, registration and all other matters affecting dental laboratories and dental laboratory technicians for commission study and recommendations thereon. The drafting and recommending of rules, regulations, fees and registration requirements shall be the sole responsibility of the commission, *except that the board shall have the responsibility if the commission fails to act within sixty (60) days of written request from the board.* [~~but~~] The final adoption of such rules, regulations, fees and registration requirements shall be the responsibility of the board upon a majority vote of the members of the board. The members of the commission shall be entitled to receive the same compensation as members of the board plus any necessary expenses incurred in attending its meetings. No practicing dentist shall be a member of the commission. *The board shall give written notice to all members of the laboratory advisory commission, of joint meetings between the board and the commission, two (2) weeks prior to any scheduled joint meeting.*

Section 15. KRS 313.520 is amended to read as follows:

(1) On or before March 1 of each calendar year the owner or owners and manager of each dental laboratory in this state shall annually register with the board each dental laboratory in this state with which he has any connection or interest. [~~, and~~] In connection with such application, *each applicant* shall pay a fee of

not less than ten dollars ($10) and not more than one hundred dollars ($100) *and* [~~as recommended by the commission and determined by the board. Such application~~] shall set forth *in the application* such facts as the board may require [~~after the board has received the recommendations of the commission~~].

(2) On or before March 1 of each calendar year each dental laboratory technician shall [~~annually~~] register with the board and shall pay in connection with such application a fee of not less than five dollars ($5) and not more than twenty dollars ($20) as recommended by the commission and determined by the board. Such application shall set forth such facts as the board may require, after the board has received the recommendations of the commission.

(3) The receipt and expenditure of all fees received by the board from *subsections* (1) and (2) *of this section* [~~above~~] shall be accounted for by the board [~~annually~~] to the commission on or before June 30 of each year[~~, beginning on July 1, 1975,~~] and no funds shall be expended by the board from fees paid by registrants [~~under (1) and (2) above~~] for any purpose other than the government and regulation of such registrants *as authorized by this chapter.*

(4) Employes of a dental laboratory, other than dental laboratory technicians, shall not be required to register under this chapter. A list of all such employes, other than dental laboratory technicians, shall be furnished annually to the board and to the commission as required by regulations adopted by the board.

(5) The board shall issue a certificate of authority to perform as a dental laboratory or as a dental laboratory technician upon the board's determination that the registrant has complied with the provisions of *this chapter* [~~KRS 313.510 to 313.540~~] and of regulations adopted *thereto* [~~by the board~~].

(6) The board may revoke or refuse to issue a certificate of authority to any dental laboratory or dental laboratory technician who has violated any provision of this chapter or any regulation adopted thereunder, or who has been convicted of a crime as defined in KRS Chapter 335B.

(7) Before revoking a certificate of authority or refusing to issue such a certificate, the board shall hold a hearing consistent with the hearing procedure contained in KRS 313.330. Any party aggrieved by the final order of the board may appeal the order of the board and the appeal procedure shall be consistent with and governed by KRS 313.340 and the Kentucky Rules of Civil Procedure.

SECTION 16. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

This section shall apply to advertisements in any way related to or concerning dental services, which are delivered to Kentucky residents or which originate in Kentucky.

(1) As used in this section, "advertise" means to furnish any written, printed or broadcast information containing the name of a dentist, dental group, association, partnership or corporation, or any other information identifying a dentist, except as follows:

(a) A professional card identifying the dentist by name and as a dentist, giving his address, telephone number, and the name of his partnership, association, or corporation. The card may also give the names of associates or partners;

(b) A brief professional announcement stating new or changed associates or addresses, or change of name, which may be published or mailed to other dentists, clients, business associates, friends and relatives. It shall not state biographical data except to the extent necessary to identify the dentist or to explain the change announced;

(c) A routine telephone book listing containing only the information specified in paragraph (a) of this subsection;

(d) A sign at or near the dentist's office and in a building directory identifying the office and containing only the information contained in paragraph (a) of this subsection; or

(e) Stationery letterhead of the dentist identifying him by name, and giving an address, telephone number and the names of associates or partners.

(2) (a) A dentist shall not, on behalf of himself, a partner, an associate or any other dentist affiliated with the dentist's office, use or participate in the use of any form of advertisement containing a statement or claim which is false or tends to be misleading, deceptive, or unfair or which is self-laudatory rather than designed to inform the public;

(b) A dentist shall not compare services with another dentist's services unless the comparison can be factually substantiated;

(c) A dentist shall not advertise in such a way as to create unjustified expectations concerning results the dentist can achieve, nor can he state or imply that the dentist can achieve results by means that violate the statutes and regulations governing the practice of dentistry in Kentucky; and

(d) A dentist who advertises a fee for dental services or products and accepts the employment must perform such services for the amount advertised, and a statement to that effect shall be included in every advertisement in which a fee is listed. This is applicable regardless of whether the patient pays the dentist directly or is covered by insurance.

(3) No dentist shall advertise unless he complies with either of the following:

(a) No approval is required prior to publication if a dentist uses any or all of the following information in an advertisement:

1. Name, including name of associates and partners, addresses and telephone numbers;

2. The specialty field, if any, in which the dentist practices, to the extent authorized under KRS 313.400 and 313.410;

3. Date and place of birth;

4. Date and place of graduations from schools and date licensed to practice dentistry and other scholastic distinctions;

5. Military services;

6. Authorships in dental-related publications;

7. Dental-related teaching positions;

8. Memberships, offices or committee assignments in local, state or national dental societies or associations;

9. Membership and offices held in dental fraternities or societies;

10. Technical or professional licenses;

11. Foreign language, sign language or other communication skills or abilities;

12. Name and address of bank references;

13. Names of clients regularly served, with their written consent;

14. Prepaid or other dental service groups to which the dentist participates;

15. Whether credit cards or other credit arrangements are accepted;

16. Office or telephone answering service, hours;

17. Fee for initial consultation;

18. Availability, on request, of estimate of fee to be charged for specific services; and

19. Any other information which the board may adopt by regulation. Any dentist may petition the board to adopt such regulations the dentist feels should be added.

(b) A dentist advertising dental services not consistent with or conforming to paragraph (a) of this subsection shall, prior to original publication of such advertisement, mail, return receipt requested, or deliver to the board a fair and accurate representation of such advertisement no fewer than thirty (30) days before such advertisement is used. If the advertisement is by means of radio, a cassette recording of the advertisement, plus a typed transcript of the words spoken or stated shall be submitted to the board. If the advertisement is by means of television, a video cassette may be sent or the board shall be advised where the advertisement may be viewed at least thirty (30) days prior to the advertisement being used for public viewing. In the event the board does not issue a notice of disapproval by the end of the thirtieth day following receipt of such advertisement, it shall be deemed approved by the board.

(4) In the event the board finds there are reasonable grounds to believe an advertisement does not comply with the requirements of this chapter, it shall issue a notice in writing of the disapproval setting forth the factual and legal basis for the disapproval. In the disapproval notice, the board shall provide an opportunity for a hearing before the board and for the filing of briefs. After consideration of all information submitted, the board shall issue an order in writing. All efforts should be made by both parties to informally resolve the matter by modification of the advertisement for approval.

(5) Any person aggrieved by the board's action may appeal the board's order. The appeal procedure shall be consistent with and governed by KRS 313.340. Review of the board's actions shall be on the record of the proceedings before the board.

Section 17. KRS 313.990 is amended to read as follows:

(1) Any person who practices or attempts to practice dentistry without a license in violation of KRS 313.020 shall be fined *five* [~~one~~] thousand dollars *($5,000)* [~~($1,000)~~] or imprisoned in the county jail for not more than *sixty (60)* [~~thirty (30)~~] days, or both, for the first offense; and for each subsequent offense shall be fined *ten* [~~two~~] thousand dollars *($10,000)* [~~($2,000)~~] or imprisoned in the county jail for not more than *six (6) months* [~~sixty (60) days~~], or both. Each day that a person without a license, practices or attempts to practice dentistry shall constitute a separate offense.

(2) Any person who violates subsection (2) of KRS 313.040 shall be confined in the penitentiary not less than one (1) nor more than five (5) years.

(3) Any person who violates KRS 313.230 shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00) for the first offense; and for each subsequent offense shall be fined not less than one hundred dollars ($100) nor more than two hundred and fifty dollars ($250) or imprisoned in the county jail for not less than thirty (30) nor more than sixty (60) days, or both.

(4) [~~Any person who violates KRS 313.240 shall be fined not more than one thousand dollars ($1,000). For a second or subsequent offense the license of any person who has violated such section may be suspended or revoked as provided in KRS 313.150.~~

~~(5)~~] Any person who violates any provision of KRS 313.030 to 313.250 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than *one thousand* [~~five hundred~~] dollars *($1,000)* [~~($500)~~] for the first offense; and for each subsequent offense shall be fined not less than *two thousand, five* [~~one~~] hundred dollars *($2,500)* [~~($100) nor more than five hundred dollars ($500)~~] or imprisoned in the county jail for not more than six (6) months, or both. Each day that a person illegally holds himself out as practicing dentistry shall constitute a separate offense.

(5)[~~(6)~~] Any person who violates any provision of KRS 313.260 to 313.350 shall be fined not more than fifty dollars ($50.00) or imprisoned in the county jail for not more than thirty (30) days, or both.

(6)[~~(7)~~] Any dentist who violates the provisions of KRS 313.410 shall, upon conviction thereof, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not less than thirty (30) days nor more than sixty (60) days or both.

(7)[~~(8)~~] Any person who knowingly sells dental supplies and equipment to a person who has been convicted under subsection (1) of this section shall be fined not more than *five* [~~one~~] thousand dollars *($5,000)* [~~($1,000)~~] or imprisoned in the county jail for not more than *sixty (60)* [~~thirty (30)~~] days or both, for the first offense; and for each subsequent offense shall be fined *ten* [~~two~~] thousand dollars *($10,000)* [~~($2,000)~~] or imprisoned in the county jail for not more than *six (6) months* [~~sixty (60) days~~], or both.

Section 18. KRS 438.065 is amended to read as follows:

(1) No person licensed to practice medicine, [~~dentistry,~~] osteopathy, podiatry, optometry, or chiropractic, or any other healing art in this state shall solicit persons to become patients, or advertise by mail, card, newspaper, pamphlet, radio, television, or any other medium, or permit his services to be advertised; provided, however, that such person may publish a brief announcement of the opening of an office or of any change of office location or change of office hours, and may cause to be listed in the telephone directory and classified advertising sections thereof his name, address, type of practice and office hours. Modest signs on the doors, windows, and walls of the licensee's office or on the building in which he maintains an office setting out his name, professional title in accordance with KRS 311.375, office hours and address shall not be considered as violations of this subsection.

(2) Each violation of subsection (1) of this section shall be punishable by a fine of not less than two hundred and fifty dollars nor more than one thousand dollars or by imprisonment for not less than one month nor more than twelve months or both.

(3) Nothing contained herein prohibits the circulation of educational materials, which are not laudatory of the author or any person with whom he is associated in the practice of his profession, and which contain no solicitation of patients for the author of any such associate of the author, which has been approved as to content by the appropriate licensing agency.

The Committee Amendment No. 1 to **HB 256** is as follows:

Amend printed copy of **HB 256**, on page 11, line 23, by deleting the words "*The appellant*" and inserting in lieu thereof the words "*Upon motion of the board,*"

and on line 24, by deleting the words "*shall file with*" and by inserting after the word "*court*" the following: "*may require the appellant to place a sufficient bond with*"; and by deleting the following: "*a bond with sufficient*"

and on line 25, by deleting the following: "*surety approved by*"

on page 12, line 12, by deleting the article "*a*" and inserting in lieu thereof "*an*"

and on line 13, by deleting the word "*clear*"

and on line 14, by deleting the word "*clearly*"

and on line 19, by deleting the word "*clearly*"

and on page 21, line 11, by deleting the article "*a*" and inserting in lieu thereof "*an*"

and on line 12, by deleting the word "*clear*"

and on line 13, by deleting the word "*clearly*"

and on line 18, by deleting the word "*clearly*"

and on line 19, by inserting before the word "The" the following: "*Upon motion of the board,*"; and by inserting after the word "*The*" the words "*circuit court may require the*"

and on line 20, by removing the bracket after the word "~~secretary~~" and inserting the bracket after the word "shall" and on line 20, by inserting before "*place*" the word "*to*"

HB 421, AN ACT relating to adoptions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.590 is amended to read as follows:

(1) No person, corporation or association shall advertise in any manner that it will receive children for the purpose of adoption nor shall any newspaper published in the Commonwealth of Kentucky nor any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) *No person, agency, institution, or intermediary may sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. Nothing in this section shall prohibit a licensed child-placing agency from charging a fee for adoption services.*

(3) In any adoption for which approval of the secretary is required under KRS 199.470(4), the total amount of money paid by adoptive parents for any purpose related to the adoption shall be made known to the court, and any attorney's fee in such cases in excess of one thousand dollars ($1,000) shall be justified to the court, which may approve or disapprove of such fee. [~~No person, agency or institution not licensed by the cabinet may charge a fee or accept remuneration for the procurement of any child for adoption purposes.~~]

The Committee on Judiciary-Civil reported **HB 303**, **HB 369**, **HB 388**, and **HB 420** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 303, AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.420 is amended to read as follows:

(1) The state and each county, city or other taxing district shall have a lien on the property assessed for taxes due them respectively for five (5) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation or any means whatever except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering such taxes. The lien shall include all interest, penalties, fees, commissions, charges and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(2) The state shall have a lien of equal rank with the lien provided in subsection (1) of this section on all property of a taxpayer who owes any property tax, license tax, inheritance or estate tax, excise tax, income tax, or other tax, when such taxes are not included in or covered by the lien provided in subsection (1) of this section. This lien shall arise at the time any assessment becomes delinquent, and it shall continue *only for five (5) years from the date that notice thereof is filed, unless the notice is renewed* [~~until the amount of the original assessment and any subsequent assessments of liability for taxes, fees, penalties, interest or costs are fully paid~~]. The lien shall attach to all interest in property, either real or personal, tangible or intangible, in this state then owned or subsequently acquired by the person against whom the assessment is made. The department of revenue *shall* [~~may~~] file notice of the lien and every city of the third, fourth, fifth and sixth class shall file notice of the delinquent tax liens with the county clerk of any county or counties in which the taxpayer's business or residence is located, or in any county in which the taxpayer has an interest in property and such notice shall be recorded in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens. Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same taxpayer. Upon request, the department of revenue shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The lien of the Commonwealth of Kentucky for taxes shall be superior to all liens and security interests created under Kentucky law except that nothing in this

subsection shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk may charge a fee pursuant to KRS 64.012 for filing the notice of lien or releasing the lien. The fees for filing or releasing the lien shall be paid by the taxing authority filing same and shall become a part of the lien as an added cost of the delinquent taxpayer to be paid by him as a part of the amount necessary to release the lien. The lien shall be released by the taxing authority that filed the notice of lien.

Section 2. KRS 341.310 is amended to read as follows:

(1) A lien on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance heretofore or hereafter created is hereby created in favor of the department upon all property of any subject employer from whom contributions, interest or penalties are or may hereafter become due. This lien shall be for a sum equal to the amount at any time due from each subject employer to the department on account of contributions, interest and penalties thereon. The lien shall commence from such time as the contributions, interest or penalties become due *and shall continue only for five (5) years from the date that notice thereof is filed, unless the notice is renewed.*

(2) The secretary *shall* [~~may~~] file notice of this lien with the county clerk of any county where the subject employer has property, giving the name of the subject employer, his address, and the amount of the lien. The clerk shall file same in the same manner as lis pendens are filed. The files shall be designated "Miscellaneous State Tax Liens." The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355 Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee of $1.25 for filing the lien, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien, and in no event shall the Commonwealth, or the department be required to pay same.

(3) In addition and as an alternative to any other remedy, the secretary may enforce the lien by petition in the name of this state to the Franklin Circuit Court, if the ministerial acts necessary to enforce the lien by the sale of the liened property or any part of it are performed by the appropriate officers of the circuit court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of other tax liens.

(4) (a) The secretary may issue a certificate of release of lien upon the furnishing of a corporate surety bond satisfactory to the secretary by such employing unit in the amount of one hundred and twenty-five percent (125%) of the sum of such contributions, interest and penalty, for which lien is claimed, conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the department in accordance with the provisions set forth in such bond.

(b) The secretary may issue a certificate of partial release of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

(c) The secretary may issue a certificate of partial release of any part of the property or individual piece of property subject to the lien if he finds that the interest of the Commonwealth in the property to be so released has no value.

HB 369, AN ACT relating to service of process.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or goods in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives

substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

a. The father or mother or both are domiciled in this state, or

b. There is a repeated pattern of intercourse between the father and mother in this state, or

c. Said intercourse is a tort or a crime in this state.

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person.

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail a true copy to the secretary of state and shall also mail with the summons an attested copy of plaintiff's complaint. The secretary of state shall, *within seven (7) days of receipt thereof in his office,* [~~immediately~~] mail the copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested and shall bear the return address of the secretary of state. The clerk shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

(c) The clerk mailing the summons to the secretary of state shall mail to him, at the same time, a fee of four dollars ($4.00), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

HB 388, AN ACT relating to venue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 452.480 is amended to read as follows:

An action which is not required by the foregoing provisions of KRS 452.400 to 452.475 to be brought in some other county may be brought in any county in which the defendant, or in which one of several defendants, who may be properly joined as such in the action, resides or is summoned. *In those instances when the jurisdictional amount involved requires the action to be heard in district court, the action may also be brought in the county where goods were purchased or services performed which give rise to the actions.*

HB 420, AN ACT relating to jurisdiction in plumbing law cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.190 is amended to read as follows:

(1) The circuit court where the violation occurs shall have jurisdiction and venue in all civil[~~,~~

~~criminal,~~] and injunctive actions instituted by the department for the enforcement of the provisions of KRS chapter 318 and the state plumbing code and the orders issued thereunder [~~and the rules and regulations of the secretary for natural resources and environmental protection~~].

(2) The Franklin Circuit Court shall hold concurrent jurisdiction and venue in all civil[~~, criminal~~] and injunctive actions instituted by the department, or upon the secretary's request by the attorney general, for the enforcement of the provisions of KRS Chapter 318, the state plumbing code and the orders issued thereunder and other rules and regulations of the department.

(3) The district court where the violation occurs shall have jurisdiction and venue in all criminal actions for the enforcement of the provisions of KRS Chapter 318 and the state plumbing code and the orders issued thereunder. The Franklin Circuit Court shall hold concurrent jurisdiction and venue on all appeals of criminal actions for the enforcement of the provisions of KRS Chapter 318 and the state plumbing code and the orders issued thereunder.

The Committee on State Government reported **HB 47, HB 106, HB 107** with Committee Amendments attached thereto, **HB 108, HB 110, HB 132** with Committee Amendment attached thereto, **HB 370** with Committee Amendment attached thereto, **HB 377** with Committee Amendment attached thereto, **HB 410, HJR 8, HJR 9,** and **SB 37** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 47, AN ACT relating to designation of the Nelson County Fair Tug-of-War Championship Contest as the official Tug-of-War Championship of the Commonwealth.

WHEREAS, the sport of tug-of-war is an American tradition; and

WHEREAS, tug-of-war is a true test of an individual's athletic abilities and strengths, as well as a challenge to team work; and

WHEREAS, the tug-of-war contest sponsored by the Nelson County Fair is the ultimate in athletic competitions;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

That the Nelson County Fair Tug-of-War Championship Contest is named and designated as the Kentucky State Tug-of-War Championship.

HB 106, AN ACT relating to computer crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 2 and 3 of this Act, the following words (including any form of the word) and terms shall have the following meanings:

(1) "Access" means to approach, instruct, communicate with, store data in, retrieve or intercept data from, or otherwise make use of any resources of, a computer, computer system, or computer network;

(2) "Computer" means a device that can perform substantial computation, including numerous arithmetic or logic operations, without intervention by a human operator during the processing of a job;

(3) "Computer network" means a set of two or more computer systems that transmit data over communication circuits connecting them;

(4) "Computer program" means an ordered set of data that are coded instructions or statements that when executed by a computer cause the computer to process data;

(5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer, computer system, or computer network;

(6) "Computer system" means a set of connected devices including a computer and other devices including, but not limited to, one or more of the following: data input, output, or storage devices, data communication circuits, and operating system computer programs that make the system capable of performing data processing tasks;

(7) "Data" is a representation of information, knowledge, facts, concepts, or instructions which are being prepared or have been prepared in a formalized manner, and is intended to be stored or processed, or is

being stored or processed, or has been stored or processed, in a computer, computer system or computer network;

(8) "Financial instruments" includes, but is not limited to, any check, cashier's check, draft, warrant, money order, certificate of deposit, negotiable instrument, letter of credit, bill of exchange, credit card, debit card, or marketable security, or any computer system representation thereof;

(9) "Intellectual property" includes data, which may be in any form including, but not limited to, computer printouts, magnetic storage media, punched cards, or may be stored internally in the memory of a computer;

(10) "To process" is to use a computer to put data through a systematic sequence of operations for the purpose of producing a specified result;

(11) "Property" includes, but is not limited to, intellectual property, financial instruments, data, computer programs, documentation associated with data, computers, computer systems and computer programs, all in machine-readable or human-readable form, and any tangible or intangible item of value; and

(12) "Services" includes, but is not limited to, the use of a computer, a computer system, a computer network, computer software, computer program, or data to perform tasks.

SECTION 2. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

(1) Whoever knowingly and willfully, directly or indirectly, accesses, causes to be accessed, or attempts to access any computer software, computer program, data, computer, computer system, computer network, or any part thereof, for the purpose of:

(a) Devising or executing any scheme or artifice to defraud; or

(b) Obtaining money, property, or services for themselves or another by means of false or fraudulent pretenses, representations, or promises shall, upon conviction thereof, be fined a sum of not more than fifty thousand dollars ($50,000 or imprisoned in the penitentiary for not less than three (3) nor more than ten (10) years, or both.

(2) Whoever intentionally and without authorization, directly or indirectly accesses, alters, damages, destroys, or attempts to damage or destroy any computer, computer system, or computer network, or any computer software, program or data shall, upon conviction thereof, be fined not more than fifty thousand dollars ($50,000) or imprisoned in the pentitentiary for not less than three (3) nor more than ten (10) years, or both.

(3) Whoever receives, conceals, or uses, or aids another in receiving, concealing or using, any proceeds resulting from a violation of either subsection (1) or (2) of this section, knowing same to be the proceeds of such violation, or whoever receives, conceals, or uses, or aids another in receiving, concealing or using, any books, records, documents, property, financial instrument, computer software, computer program, or other material, property, or objects, knowing same to have been used in violating either subsection (1) or (2) of this section shall, upon conviction thereof, be fined not more than twenty-five thousand dollars ($25,000) or imprisoned in the penitentiary for not less than three (3) nor more than ten (10) years, or both.

SECTION 3. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

For the purpose of venue under the provisions of Section 2 of this Act, any violation of Section 2 of this Act shall be considered to have been committed: in any county in which any act was performed in furtherance of any transaction violating Section 2 of this Act; in any county in which any violator had control or possession of any proceeds of said violation or of any books, records, documents, property, financial instrument, computer software, computer program or other material, objects or items which were used in furtherance of said violation; and in any county from which, to which or through which any access to a computer, computer system, or computer network was made whether by wires, electromagnetic waves, microwaves or any other means of communication.

HB 107, AN ACT relating to the Kentucky Information Systems Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

It is the intent of the general assembly that an information systems commission be created to develop and implement plans for the effective and efficient use of computers and related systems in all branches of state government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created an independent agency of state government to be known as the Kentucky information systems commission, hereinafter in this Act called the commission. It shall be the responsibility of the commission to coordinate, on a statewide level, the computerization of public records generated in state government.

(2) The commission shall be composed of nineteen (19) members appointed by the governor. It shall consist of:

(a) One (1) member appointed from a list of six (6) persons submitted by the speaker of the house;

(b) One (1) member appointed from a list of six (6) persons submitted by the president pro tempore of the senate;

(c) One (1) member appointed from a list of three (3) persons submitted by the house minority leader;

(d) One (1) member appointed from a list of three (3) persons submitted by the senate minority leader;

(e) Four (4) officers of the finance and administration cabinet which shall include representatives of the office for policy and management, department of administration, department of information systems, and department of personnel;

(f) One (1) representative of the secretary of state appointed from a list of three (3) persons submitted by the secretary of state;

(g) One (1) representative of the state treasury appointed from a list of three (3) persons submitted by the state treasurer;

(h) One (1) representative of the attorney general appointed from a list of three (3) attorneys submitted by the attorney general;

(i) One (1) member appointed from a list of three (3) persons submitted by chief justice of the supreme court;

(j) One (1) representative of the auditor of public accounts appointed from a list of three (3) persons submitted by the auditor of public accounts;

(k) One (1) representative of the department of libraries and archives appointed from a list of three (3) persons submitted by the state librarian;

(l) One (1) representative of the Kentucky association of counties appointed from a list of three (3) persons submitted by the president of the Kentucky association of counties;

(m) One (1) representative of the Kentucky municipal league appointed from a list of three (3) persons submitted by the president of the Kentucky municipal league; and

(n) Three (3) citizen members.

(3) Commission members shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(4) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(5) A majority of the members shall constitute a quorum for the transaction of business.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall meet at least twice each year. It shall select from its membership a chairman and any other officers it considers essential. In addition, the commission, upon the call of its officers may hold meetings at such time as it deems necessary.

(2) The commission's duties shall include the following:

(a) On-going study of the system of management information and data processing by the Commonwealth of Kentucky and all its departments, officers, agencies and subdivisions, with particular emphasis on state and local government information transfers;

(b) Recommending present and future electronic data processing installations, budgets and applications;

(c) Recommending procedures and legislation to insure the privacy of individuals, with particular emphasis on the potential for invasion of individual privacy;

(d) Compiling and updating a data directory listing of all data sets, data files and related software and storage devices used in the management and delivery of government services; and

(e) Developing and maintaining a program to insure the documentation, accession, maintenance, and storage of public records in machine readable form.

(3) To accomplish the commission's work, all departments, divisions, agencies and officers of the Commonwealth shall afford the commission any requested resources, information, records or advise pertinent to the subject matter being studied. Necessary assistants to the commission shall be furnished by the legislative research commission and those cabinets, agencies, or offices represented by the membership. The commission shall report its findings and recommendations to the legislative research commission by October 1 of each year. All reports of the commission shall be made readily available to the general public.

The Committee Amendment No. 1 to **HB 107** is as follows:

Amend printed copy of **HB 107**, on page 4, line 23, after the period by inserting the following: *Such program shall be undertaken in conjunction with the Archives and Records Commission through the Department of Libraries and Archives.*

The Committee Amendment No. 2 to **HB 107** is as follows:

Amend printed copy of **HB 107**, on page 1, line 17, after the word "*of*" by deleting "*nineteen*" and inserting "*twenty*" in lieu thereof

on page 1, line 18, before the word "*members*" by deleting "*(19)*" and inserting "*(20)*" in lieu thereof;

on page 3, line 14, after the period by inserting the following:

"*(o) One (1) member of the press to be appointed from a list of three (3) persons submitted by the president of the Kentucky press association.*"

HB 108, AN ACT relating to public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 519.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Governmental function" means any activity which a public servant is legally authorized to undertake on behalf of the governmental unit which he serves.

(2) "Public record" includes all official books, papers, exhibits, *cards, tapes, discs, diskettes, recordings, electronic images, electronic optical images or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public* [~~or records created by or received and retained in any governmental office or~~] agency.

(3) "Public servant" means:

(a) Any public officer or employe of the state or of any political subdivision thereof or of any governmental instrumentality within the state; or

(b) Any person exercising the functions of any such public officer or employe; or

(c) Any person participating as advisor, consultant or otherwise in performing a governmental function, but not including witnesses; or

(d) Any person elected, appointed or designated to become a public servant although not yet occupying that position.

(4) As used in this chapter, "benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

HB 110, AN ACT relating to the legislative research commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.110 is amended to read as follows:

(1) The commission, *its co-chairmen or director, any other member of the General Assembly authorized by the director* [~~or any member thereof~~], or *any* [~~an~~] employe [~~duly~~] authorized by the *director* [~~commission or the chairman thereof~~], shall have access to all *public* records *as provided in KRS 61.870 to 61.884,* of every agency, division or department of state government, and of any agency or institution, public or private, which has been the recipient of public funds. *The commission, its co-chairmen or director, any other member of the General Assembly authorized by the director, or any employe authorized by the director, may utilize automated data processing procedures and equipment in the accession of public records, if such records exist in machine readable form and with the permission of the agency, division or department responsible for their creation. To effect the purposes of this section, the commission shall promulgate such rules and regulations relating to the accession of public records as are necessary.* The commission, *its co-chairmen or director, any other member of the General Assembly authorized by the director* [~~or any~~

~~member thereof~~], or any employe [~~duly~~] authorized by the *director* [~~commission or the chairman thereof~~], may require information on oath of any person touching any matter which he is instructed to investigate, study or audit, and shall have the power to subpoena witnesses and records for such purpose, and otherwise compel the giving of evidence of any matter under study. If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the commission desires information pertaining to the studies in which it is engaged, the Franklin Circuit Court, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Every witness so subpoenaed under this section shall receive for his attendance the fee and mileage provided for witnesses in civil cases in circuit court, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness and approved by the commission.

(2) All state agencies and institutions shall cooperate with the commission to effectuate the purposes of KRS 7.090 to 7.110 and shall submit copies of their annual or biennial reports to the commission.

(3) The commission shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the council of state governments, both regionally and nationally, and formulate proposals for cooperation between this state and other states. The legislative research commission shall function as Kentucky's commission on interstate cooperation in carrying out the program of the council of state governments as it relates to Kentucky.

(4) The commission shall designate persons to represent Kentucky at the national conference of commissioners on uniform state laws. The commission shall report the findings and recommendations of the national conference to the general assembly. Any funds appropriated to the commissioners on uniform state laws shall be paid out on vouchers approved by the director of the commission.

(5) The commission may establish such subcommittees and advisory citizens' committees as may be convenient or desired for the proper and efficient performance of its functions. Members of the general assembly other than those who are members of the commission designated to serve on subcommittees shall receive the same travel allowances and compensation for attending meetings as they do for attending meetings during a session of the general assembly, except that each general assembly member who is a chairman of a joint interim committee of the legislative research commission shall be paid, in addition to such allowances and compensation, ten dollars ($10.00) per day for each committee meeting that he chairs.

(6) The commission shall report its findings, either with or without recommendations, to the governor of the Commonwealth, and to each member of the general assembly at least thirty (30) days prior to the convening of each regular session of the general assembly.

Section 2. KRS 7.320 is amended to read as follows:

(1) The legislative research commission or a subcommittee authorized by it shall study and examine expenditures of state agencies. *To facilitate optimum effectiveness and economy in the performance of this function, the legislative research commission or a committee or subcommittee authorized by it, shall employ electronic data processing equipment including computers and other necessary support equipment capable of providing read only access to the desired expenditure records.* The commission may organize and adopt rules for the conduct of its business and do whatever else it considers necessary or advisable to carry out the purposes of KRS 7.310 to 7.380.

(2) The commission may adopt rules and prescribe procedures for the conduct of its affairs.

(3) The commission or any member thereof or any employe duly authorized by the commission or the chairman thereof may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and have the deposition of witnesses taken in the manner prescribed by law for taking depositions in civil actions. If a person disobeys or refuses to comply with a subpoena, or if a witness refuses to testify to a matter regarding which he may be lawfully interrogated, the Franklin Circuit Court may on application of the commission compel obedience by proceedings for contempt in the same manner as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the commission by its order, other than an officer or employe of the state, is entitled to the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission.

Section 3. KRS 48.800 is amended to read as follows:

The department of finance shall prepare and submit to each branch of government:

(1) Within ten (10) days after the close of each month copies of the accounts of the budget units of that branch of government with the appropriations and allotments in favor of its budget units and the balances as of the beginning and end of that month.

(2) Within ten (10) days after the close of each month, prepare and transmit to each branch of government a report embodying a summary statement of the actual financial condition of each fund of the major fund groups as of the close of the previous month, a summary statement showing the receipts and payments of each such fund for the previous month and for the current fiscal year to the close of the previous month, a summary budget statement for each such fund showing the available cash balance as of the end of the previous month, the amount of cash estimated to be realized from each source during the remaining

months of the fiscal year, the total means of financing, the amount of the unallotted balances of all appropriations, the estimated amount of unliquidated commitments, and the estimated cash surplus or deficit.

(3) Within ninety (90) days of the close of a fiscal year, file with each branch of government a complete report of the financial transactions of the preceding fiscal year and of the financial condition of the Commonwealth as of the end of that fiscal year, with such comments and supplementary data necessary to make the report complete and easy to understand.

(4) Each branch of government shall publish a financial and program status report, *within ninety (90) days of the close of a fiscal year* [~~annually~~], detailing for that period, activities, appropriations, allotments, expenditures, *receipts,* transfers, encumbrances and available balances of each budget unit of the branch, and an explanation of the programs and services provided by the branch.

(5) In order to effectuate the budget review function of the general assembly, each branch of government shall make available, on a continuing basis, records which detail activities, appropriations, allotments, expenditures, receipts, transfers, encumbrances and available balances of each budget unit of the branch. Such records shall be made available in the form necessary to facilitate their read only accession by means of electronic data processing procedures employed by the legislative research commission.

HB 132, AN ACT relating to holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.110 is amended to read as follows:

(1) The 1st day of January (New Year's Day), the *third Monday* [~~15th day~~] of January (*Birthday of* Martin Luther King, *Jr.* [~~Day~~]), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), the 11th day of November (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the governor as days of thanksgiving, are holidays, on which all the public offices of this Commonwealth may be closed; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company, may, at its option, either close or remain open for business on the *third Monday* [~~15th day~~] of January (*Birthday of* Martin Luther King, *Jr.* [~~Day~~]), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the second Monday in October (Columbus Day), and the 11th day of November (Veterans Day), provided that any bank, trust company or combined bank and trust company electing to close on any of the above holidays may provide fifteen (15) days' notice to the public of such closing by posting a statement to such effect in some conspicuous place in said institution. Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the Uniform Commercial Code or any other law of the Commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this Commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this Commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

Section 2. KRS 18A.190 is amended to read as follows:

(1) State offices shall be closed and state employes shall be given a holiday on the following days:
(a) The 1st day of January plus one extra day;
(b) *The 3rd Monday of January;*
(c) The 3rd Monday in February;
(d)[~~(c)~~] Good Friday, one-half day;
(e)[~~(d)~~] The last Monday in May;
(f)[~~(e)~~] The 4th day of July;
(g)[~~(f)~~] The 1st Monday in September;
(h)[~~(g)~~] Presidential election day as required under KRS 2.190;
(i)[~~(h)~~] The 4th Thursday in November plus one extra day;
(j)[~~(i)~~] The 25th day of December plus one extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one extra day is mentioned in paragraphs (a), *(i)* [~~(h)~~] and *(j)* [~~(i)~~] of subsection (1), the governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employes.

Section 3. This Act shall be effective January 1, 1986.

The Committee Amendment No. 1 to **HB 132** is as follows:

Amend printed copy of **HB 132,** on page 4, line 2, by deleting Section 2 in its entirety; and

on page 5, line 4, after the word "section" by changing "3" to "2".

HB 370, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.150 is amended to read as follows:

(1) An honorably discharged war veteran, *a member of the Kentucky national guard, or a former member of the Kentucky national guard who has been honorably discharged* shall have five (5) points added to his entrance examination score for classified positions.

(2) Any honorably discharged war veteran whom the veterans administration or any branch of the armed forces of the United States determines has service-connected disabilities shall have ten (10) points added to his entrance examination score for a classified position.

(3) The spouse of an honorably discharged war veteran who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall have ten (10) preference points added to his entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled war veteran recovers.

(4) Until remarriage, the surviving spouse of an honorably separated war veteran shall have ten (10) preference points added to his entrance examination score for a classified position. This includes the surviving spouse of a war veteran who died while in the armed forces, unless circumstances surrounding the death would have been cause for other than honorable separation.

(5) A parent totally or partially dependent on a war veteran who lost his life under honorable conditions while on active duty or active duty for training purposes or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to his examination score for a classified position.

(6) War veterans and their spouses, widows, widowers, and parents eligible for preference points shall have them added to their entrance examination scores for classified positions only if the score is determined by the commissioner to be a passing score and after verification of the required service.

The Committee Amendment No. 1 to **HB 370** is as follows:

Amend printed copy of **HB 370,** on page 1, line 4, by inserting the phrase "*with wartime service*" after "*guard*"; and on page 1, line 5, by inserting the phrase "*with wartime service*" after "*guard*"; and

on page 1, line 7, by adding the following sentence at the end of line 7: "*Wartime service" by members and former members of the Kentucky national guard shall mean membership in the Kentucky national guard during any war, campaign, expedition or time period specified in KRS 18A.005(23).*

HB 377, AN ACT relating to the location of correctional institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) The establishment by the cabinet of an institution for the incarceration of adult inmates, which is to be located within the boundary or within five (5) miles of the boundary of an incorporated city or an unincorporated urban place as designated by the 1980 decennial census of the United States, shall be prohibited.

(2) The provisions of subsection (1) of this section shall not apply to the expansion of existing institutions for the incarceration of adult offenders, facilities for the detention of juveniles or to jails, as defined in KRS 441.005. Nor shall the provisions of subsection (1) of this section be construed to prohibit the temporary housing of designated state prisoners in jails.

The Committee Amendment No. 1 to **HB 377** is as follows:

Amend printed copy of **HB 377,** on page 1, line 6, after "*or*" by deleting "*an unin-*"; and

on page 1, line 7, by deleting "*corporated urban place*" and by inserting in lieu thereof, "*a census designated place with a population of more than 2,500 persons*"

HB 410, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.010 is amended to read as follows:

The department of military affairs shall *be attached to the office of the governor,* have charge of and be responsible to the governor for the proper functioning of the Kentucky national guard, militia and all other military or naval matters of the state, and shall consist of the following divisions:

(1) Administrative divisions;
(2) Veterans division;
(3) Facilities division;
(4) Active militia division;
(5) Army national guard division;
(6) Air national guard division;
(7) Kentucky civil air patrol;
(8) Division of air transport and capital city airport; and
(9) Kentucky center for veteran affairs.

In order to promote greater efficiency, economy and improved administration, the divisional structure of the department of military affairs may be changed, redesignated or reorganized in accordance with KRS Chapter 12. *Notwithstanding KRS Chapter 12, the department's attachment to the office of governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the general assembly.*

Section 2. KRS 36.310 is amended to read as follows:

(1) There is created a board to be known as the advisory board for veterans' affairs. The board shall be composed of five (5) members appointed by the governor. Two (2) of said members shall serve for a period of three (3) years, two (2) for a period of two (2) years and one (1) for a period of one (1) year and all shall serve until their successors are appointed, and with all appointments after the original appointments being for three (3) years. It is further provided that said appointments shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy. Insofar as practicable, the governor, in making appointments to the board, shall give due consideration to a fair representation on the board of nationally recognized veterans' organizations active in Kentucky, based on size of the membership of

such organizations in this state. The state headquarters of each said major veterans' organization may, from time to time, submit a list of not more than three (3) names to the governor from which list original appointments may be made and vacancies filled in his discretion.

(2) Members of the board shall meet at least once every two (2) months at the headquarters of the advisory board for veterans' affairs, and at such other times as the chairman may designate, and the members shall decide as to the specific meeting date.

(3) Members of the board shall be paid for the actual expenses incurred upon attendance of meetings of the board subject to the finance and administration cabinet regulations.

(4) At its first meeting the members of the board shall select a chairman, vice-chairman and secretary from among the members.

(5) The board shall advise the governor on the administration of veterans' services programs.

(6) The board shall advise the general assembly on matters relating to veterans' affairs.

Section 3. The General Assembly does not confirm Executive Order 82-778 which transferred the Department of Military Affairs from the Office of Governor to the Justice Cabinet. The General Assembly confirms Executive Order 83-1135 which revoked Executive Order 82-778 and transferred the Department of Military Affairs to the Office of Governor as specified in KRS 12.023.

HJR 8, A JOINT RESOLUTION directing the Legislative Research Commission to establish a Task Force on Rail Passenger Service in Kentucky.

WHEREAS, the development of rail passenger service can contribute to the orderly growth of the Commonwealth, the redevelopment of older central cities, the promotion of tourism, the improvement of general mobility, and the evolution of a less petroleum-dependent transportation system; and

WHEREAS, the development of such service is possible utilizing existing rail rights-of-way and would not require extensive land acquisition or new construction; and

WHEREAS, the rail mode of transportation is the easiest mode to convert to electric or steam, making it capable of utilizing Kentucky produced coal as a source of power; and

WHEREAS, surveys of the metropolitan areas of Louisville, Lexington, Ashland and Northern Kentucky indicate sufficient ridership to justify the development of rail passenger service; and

WHEREAS, the potential economic benefits to the Commonwealth from the development of this service in terms of tourism, expanded markets, enhanced local economic bases, increased employment opportunity, and a balanced transportation system, justify an examination of the feasibility of financing and operation of such service by state government; and

WHEREAS, state administration of a passenger rail service development program would make federal funding available for part of the costs to provide such service;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That a Special Task Force on Rail Transportation be created to study:

(1) The feasibility of establishing state operated intercity and commuter rail passenger service over existing rights-of-way, using steam power and available reconditioned equipment suitable for this service between Louisville, Frankfort, Lexington and Ashland and connecting at Ashland with National Railway Corporations' (AMTRAK) through Chicago - Washington - New York route;

(2) The administration and operation of such service under a state rail transportation authority;

(3) The potential economic and social benefits of future rail passenger service development;

(4) The projected incremental costs, patronage, and revenues resulting from development of the following:

(a) Intercity rail service between Louisville and Indianapolis using the Conrail route;

(b) Combined intercity/commuter rail services between Cincinnati and Lexington using the Southern route;

(c) Combined intercity/commuter rail services between Louisville, Bowling Green and Nashville using the L&N route;

(d) Intercity rail service between Louisville and Owensboro using the L&N route;

(e) Combined intercity/commuter rail services between Louisville and Paducah using the ICG route;

(f) Intercity rail passenger service between Louisville and Cincinnati using the L&N route;

(g) Combined intercity/commuter rail services between Cincinnati, Winchester, Richmond, Berea, Corbin and Knoxville using the L&N route;

(h) Combined intercity/commuter rail passenger services between Cincinnati, Maysville, Ashland and Huntington, West Virginia using the C&O route.

(5) The inclusion of Kentucky in the Interstate High Speed Intercity Rail Transportation Network

Compact with Ohio, Illinois, Indiana, Michigan and Pennsylvania.

Section 2. The membership of the Task Force shall be limited to twenty (20) persons and shall include state officials, area business leaders, affected local officials, an engineering advisor, and five (5) such persons who, on account of their previous education, vocation, employment or affiliation can be considered knowledgeable in rail service or rail transportation, to be appointed by the Co-Chairmen of the Legislative Research Commission. The Co-Chairmen shall appoint the Chairman of said Task Force. All members are to be reimbursed actual expenses for attending meetings or for travel made necessary to accurately complete the work assigned in this study, provided such travel is approved by the director of the Legislative Research Commission.

Section 3. That staffing for the meetings and for assistance to the committee in compiling the research of its members be provided by the Legislative Research Commission.

Section 4. That the Task Force shall report its findings to the Legislative Research Commission by July 1, 1985.

Section 5. Staff services to be utilized in completing this study are estimated to cost $12,000. These services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

HJR 9, A JOINT RESOLUTION directing the division of disaster and emergency services to develop and maintain an earthquake hazards reduction program for the Commonwealth.

WHEREAS, earthquakes have caused, and can be expected to cause in the future, great destruction of property, economic and social disruption, injury and death; and

WHEREAS, it has now been recognized that the central United States is one of the three areas in the country likely to be affected by a severe earthquake; and

WHEREAS, twenty-five counties in western Kentucky, as well as counties in six other neighboring states, lie in those areas of the New Madrid Fault zone that can expect considerable devastation; and

WHEREAS, a majority of Kentucky's population is centered in towns and cities which lie along the Ohio and other rivers and are thus endangered, since such areas can expect high ground amplification; and

WHEREAS, the U.S. Army Corps of Engineers has classified 210 dams as "high hazards," 75 as "unsafe," and 5 as "urgent"; and

WHEREAS, the risk of human life and property can be substantially reduced through implementation of earthquake hazards reduction measures;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the division of disaster and emergency services develop and maintain an earthquake hazards reduction program which includes, but is not limited to:

(1) Evaluation of earthquake hazards;

(2) Development of adequate safety standards to safeguard life and property;

(3) Plans for earthquake preparedness and recovery;

(4) Participation in appropriate federal-state earthquake hazards reduction programs such as those provided by the federal emergency management agency, the United States geological survey, and the national science foundation;

(5) Participation in and cooperation with interstate earthquake hazards reduction programs which involve neighboring states along the New Madrid Fault, such as those provided by the central United States earthquake consortium;

(6) Participation in the five-year earthquake hazard reduction program which has been presented and will be funded by the federal emergency management agency and which includes the major categories of state and local response planning, public education, and mitigation.

Section 2. That the division of disaster and emergency services include in its annual written report to the governor, as provided in KRS 36.040(7), an account of the status of the earthquake hazards reduction program, and describe and evaluate progress achieved during the preceding fiscal year in reducing the risks of earthquake hazards. A copy of this annual report shall also be sent to the legislative research commission. Each report shall include any recommendations for legislative and other action which the division of disaster and emergency services deems necessary and appropriate.

SB 37, AN ACT relating to health insurance for state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental and health service corporation, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section.

(2) The secretary of the department of finance, upon the recommendation of the commissioner of personnel, may procure, *in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090,* from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, major medical and dental insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(5) No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(6) The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(7) The secretary of the department of finance is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance and health maintenance organization coverage under the provisions of this section.

(8) The health insurance contract or contracts for state employes shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984 shall be awarded for the period between October 1, 1984 and June 30, 1986.

Section 2. KRS 45A.022 is amended to read as follows:

(1) This chapter shall apply to all insurance contracts purchased by the Commonwealth except where the commissioner of insurance determines, with the concurrence of the secretary of finance, that:

(a)[~~(1)~~] An emergency exists; or

(b)[~~(2)~~] Competition is not feasible; or

(c)[~~(3)~~] The annual premium is less than ten thousand dollars ($10,000).

(2) Notwithstanding subsection (1) of this section, the health insurance contract or contracts for state

employes as authorized by KRS 18A.225 shall be subject to the provisions of KRS 45A.080, 45A.085 and 45A.090.

Section 3. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the department of revenue a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2.00) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employes as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 4. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the department of revenue on or before the first day of March in each year, a tax of two per cent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employes as authorized by KRS 18A.225 shall not be subject to taxation under this section.

Section 5. KRS 136.330 is amended to read as follows:

(1) Every foreign life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the department of revenue a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted.

(2) Every company shall, at the time of making the return, pay a tax of two dollars ($2.00) upon each one hundred dollars ($100) of such premium receipts.

(3) The 1962 amendment to this section shall be effective as of January 1, 1962, and shall apply to the premium taxes due and payable as shown on returns filed subsequent to that date.

(4) The health insurance contract or contracts for state employes as authorized by KRS 18A.225 shall not be subject to taxation under this section.

The Committee Amendment No. 1 to **SB 37** is as follows:

Amend printed copy of **SB 37**, on page 1, line 3, after "(1)" by inserting "*(a)*"

page 1, after line 15, and before line 16, by inserting:

(b) The term "state employe" for purposes of this section shall mean a person who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one of the retirement systems administered by the state, provided, however, that any federally funded time-limited employe may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

on page 8, after line 11, by adding:

"Section 6. KRS 18A.205 is amended to read as follows:

(1) The secretary of the department of finance, upon the recommendation of the commissioner, may procure from one or more life insurance companies, authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employes. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance may be made available for state employes, except that the procuring is permissive.

(2) The term "state employe," for purposes of KRS 18A.205 to *18A.215* [~~18A.225~~], shall mean a person who is regularly employed by any department, board, agency or branch of state government, and who is also a contributing member of any one of the retirement systems administered by the state provided, however, that any federally funded time-limited employe may receive insurance coverage.

(3) The term "premiums," for the purposes of KRS 18A.205 to 18A.225, shall mean premiums to be paid on any type of insurance authorized under KRS 18A.205 to 18A.225."

The Committee on Judiciary-Civil reported **HB 322**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 322, AN ACT relating to the computation of time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 446.030 is amended to read as follows:

(1) (a) In computing any period of time prescribed or allowed by order of court, or by any applicable statute, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, a legal holiday, or a day on which the public office in which a document is required to be filed is actually and legally closed, in which event the period runs until the end of the next day which is not one of the days just mentioned. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(b) When a statute or order of court requires an act to be done either a certain time before an event or a certain time before the day on which an event occurs, the day of the event shall be excluded in computing the time. If the day thereby computed on which or by which the act is required to be done falls on a Saturday, Sunday, legal holiday, or a day on which the public office in which the act is required to be completed is actually and legally closed, the act may be done on the next day which is none of the days just mentioned.

(2) If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month and that day is Sunday, the proceeding shall take place, or the act shall be done, on the next day that is not a legal holiday.

(3) If any act is required by statute or administrative regulation to be completed on or before a certain date and that date falls on a Saturday, Sunday or legal holiday, the act shall be completed on or before the next day that is not a Saturday, Sunday or legal holiday. If the act required to be completed is the postmarking of any matter, any day observed as a legal holiday by the United States postal service shall be considered a "legal holiday" solely for the purposes of this subsection.

The Committee Substitute to **HB 322** is as follows:

HB 322, AN ACT relating to the computation of time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 446.030 is amended to read as follows:

(1) (a) In computing any period of time prescribed or allowed by order of court, or by any applicable statute *or regulation*, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, a legal holiday, or a day on which the public office in which a document is required to be filed is

actually and legally closed, in which event the period runs until the end of the next day which is not one of the days just mentioned. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(b) When a statute, *regulation,* or order of court requires an act to be done either a certain time before an event or a certain time before the day on which an event occurs, the day of the event shall be excluded in computing the time. If the day thereby computed on which or by which the act is required to be done falls on a Saturday, Sunday, legal holiday, or a day on which the public office in which the act is required to be completed is actually and legally closed, the act may be done on the next day which is none of the days just mentioned.

(2) If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month and that day is Sunday, the proceeding shall take place, or the act shall be done, on the next day that is not a legal holiday.

Calendar

HB 367, HB 23, HB 24, HB 26, HB 43, and **HB 268** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 270, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved the adoption of the Committee Amendment No. 1 to **HB 270.** Agreed.

Representative Cline moved that **HB 270,** as amended be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 270, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 270,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 52 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **HB 52** be passed.

On the roll call the vote was yeas 83-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Ford, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 13-Allen, Barrows, Burnette, Deskins, Endicott, Farrow, Fryman, Layman, McNutt, Overstreet, Patrick, Todd, Turner.

HB 52 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 52** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 80, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Amendment No. 1 to **HB 80.** Agreed.

Representative Barrows moved that **HB 80,** as amended, be passed.

On the roll call the vote was yeas 98-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 80, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 80,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of the Committee Substitute to **HB 350.** Agreed.

Representative O'Brien moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 350.**

Representative Barrows inquired of the Chair whether Floor Amendment No. 4 was germane to the bill.

The Chair ruled Floor Amendment No. 4 was germane.

On the roll call the vote was yeas 55-Arnold, Barrows, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Deskins, Ellington, Gedling, Gray, Guenthner, Hancock, Handy, Head, R. Jones, Kenton, Little, Lundergan, McBee, Moberly, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Williams, Worthington, Yates. Nays 42-Allen, Bendl, Bruce, Caldwell, Clarke, Curd, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Harper, Heleringer, Holbrook, Johnson, T. Jones, Layman, Lefevers, LeMaster, Lile, List, Long, Maggard, Mann, McElroy, McNutt, Meyer, Moore, Noe, Overstreet, Petty, Richards, B. Richardson, P. Richardson, Thomason, Todd, Turner, Van Horn, White.

Floor Amendment No. 4 to the Committee Substitute to **HB 350** was adopted.

Representative O'Brien moved that **HB 350,** by way of Committee Substitute as amended, be passed.

Representative Allen moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 350.** Rejected.

Representative O'Brien moved that **HB 350,** by way of Committee Substitute as amended, be passed.

Representative Cowan moved that **HB 350,** by way of Committee Substitute as amended, be laid on the

Clerk's desk.

On the roll call the vote was yeas 42-Allen, Barrows, Caldwell, Clarke, Cowan, Curd, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Hancock, Handy, Harper, Heleringer, Johnson, R. Jones, Kenton, Layman, Lefevers, Lile, Long, Lundergan, Mann, McNutt, Meyer, Moberly, Moore, Nett, Noe, Overstreet, Pearman, Rattliff, Reinhardt. Richards, Riner, Thomason, Todd, Turner, Van Horn, White. Nays 56-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P.Clark, Cline, Craddock, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Gedling, Gray, Guenthner, Head, Hines, Holbrook, T. Jones, Kidd, List, Little, Maggard, McBee, McElroy, Morris, Noland, O'Brien, Patrick, Perkins, Petty, Priddy, Rapier, B. Richardson, P. Richardson, Robinson, Seum, S. Smith, F. Smith, Stone, Stumbo, Thomas, Williams, Worthington, Yates.

The motion that **HB 350**, by way of Committee Substitute as amended, be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 53-Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Craddock, Crupper, Cyrus, Dawahare, Deskins, Ellington, Fryman, Gedling, Gray, Guenthner, Head, Hines, Holbrook, Kenton, Kidd, Little, Lundergan, Maggard, McBee, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Perkins, Priddy, Rapier, Rattliff, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Williams, Worthington, Yates. Nays 45-Allen, Barrows, Bendl, Caldwell, Clarke, Cowan, Curd, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Hancock, Handy, Harper, Heleringer, Johnson, R. Jones, Layman, Lefevers, LeMaster, Lile, List, Long, Mann, McElroy, McNutt, Meyer, Moore, Overstreet, Pearman, Petty, Reinhardt, Richards, B. Richardson, Riner, B. Smith, Thomas, Thomason, Todd, Turner, Van Horn, White.

HB 350, by way of Committee Substitute as amended was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 350**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 79** and **SCR 14.**

Orders of the Day (continued)

HB 282 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 282** be passed.

On the roll call the vote was yeas 90-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-T. Jones.

HB 282 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 282** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 333, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomason moved the adoption of the Committee Substitute to **HB 333.** Agreed.

Representative Thomas moved that **HB 333,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 333, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 333,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HCR 21 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **HCR 21** be passed.

On the roll call the vote was yeas 79-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Van Horn, White, Worthington, Yates. Nays 10-Clarke, Freibert, Fryman, Heleringer, R. Jones, McNutt, Patrick, Todd, Turner, Williams.

HCR 21 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HCR 21** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 311 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved that **HB 311** be passed.

Representative Williams moved that **HB 311** be laid on the Clerk's desk. Rejected.

Representative Nett moved that **HB 311** be recommitted to the Committee on Cities. Rejected.

Representative Williams moved tha thte House recess for five minutes.

On the roll call the vote was yeas 16-Barrows, Bendl, Bronger, P. Clark, Cowan, Crupper, Deskins, Freibert, Heleringer, Hines, T. Jones, Long, Mann, Meyer, Nett, Williams. Nays 64-Allen, Bennett, Blandford, Blevins, Brinkley, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, Cline, Craddock, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Guenthner, Hancock, Harper, Head, Johnson, Layman, Lefevers, LeMaster, List, Little, Maggard, McBee, McElroy, McNutt, Moberly, Moore, Morris, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Reinhardt, Richards, B. Richardson, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates.

The motion that the House recess was rejected.

Representative Williams moved that the House adjourn until 2:00 p.m. tomorrow.

On the roll call the vote was yeas 5-Bendl, Heleringer, Hines, Meyer, Williams. Nays 77-Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Nahcock, Handy, Harper, Head, Lefevers, LeMaster, Lile, List, Little, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates.

The motion that the House adjourn until 2:00 p.m. tomorrow was rejected.

Representative Guenthner moved the adoption of the Previous Question on **HB 311**. Rejected.

On the roll call the vote was yeas-Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Craddock, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Head, Holbrook, Johnson, R. Jones, T. Jones, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, McBee, McElroy, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 17-Barrows, Bendl, Burch, Clarke, Crupper, Donnermeyer, Freibert, Handy, Harper, Heleringer, Hines, Kidd, Mann, McNutt, Meyer, Nett, Williams.

HB 311 was passed and the title agreed to.

Representative Brinkley moved that the vote by which **HB 311** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 356, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stone moved the adoption of the Floor Amendment No. 1 to **HB 356**. Agreed.

Representative Stone moved that **HB 356**, as amended, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Farrow, Pearman, Thomason.

HB 356, as amended, was passed.

Representative Stone moved the adoption of the Floor Title Amendment to **HB 356**. Agreed.

Representative Stone moved that the vote by which **HB 356**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Burch expressed his grievance caused by **HR 44**.

Representative Heleringer moved that **HR 44** be withdrawn. Agreed.

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative LeMaster moved the adoption of the following **HR 43**:

HR 43, A RESOLUTION in memory of Mrs. Lena Holloway.

WHEREAS, Mrs. Lena Holloway, beloved mother of Representative Ed Holloway, has departed this earthly life; and

WHEREAS, those fortunate enough to have known and loved Mrs. Holloway now will miss sorely her compassion, kindness, concern for others, and her wise counsel and willing assistance whenever called upon; and

WHEREAS, throughout her life Mrs. Holloway bore the respect, admiration and esteem of all whom she encountered, rendering unto each unfailingly kind words, loving thoughts and fond remembrances;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its utter sense of bereavement and sorrow upon the death of Mrs. Lena Holloway, and does extend to her family its heartfelt sympathy and condolences.

Section 2. That when the House of Representatives does adjourn this day, February 1, 1984, it does so in loving memory of Mrs. Lena Holloway.

Section 3. That a copy of this resolution be dispatched to the family of Mrs. Lena Holloway.

HR 43 was adopted by voice vote.

Representative Bennett moved that **HB 434** be reassigned to the Committee on Banking and Insurance. Agreed.

Representative O'Brien moved that **HB 230** be reassigned to the Committee on Banking and Insurance. Agreed.

Representative Perkins moved that **HB 314,** as amended, be taken from the table and placed in Orders of the Day.

On the roll call the vote was yeas 51-Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, P. Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Gedling, Gray, Hancock, Handy, Johnson, T. Jones, Kenton, LeMaster, List, Little, Long, Maggard, Mann, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Pearman, Perkins, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Thomason, Williams, Yates. Nays 14-Allen, L. Clark, Ellington, Ford, Guenthner, Heleringer, Lefevers, Lile, Moore, Reinhardt, Robinson, Todd, Turner, Van Horn.

The motion that **HB 314,** as amended, be taken from the table and placed in Orders of the Day was adopted.

Representative Perkins moved that **HB 314,** as amended, be placed in Orders of the Day for tomorrow. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 511, by Representatives LeMaster and Johnson: AN ACT relating to the court of justice and making an appropriation therefor.

HB 512, by Representatives LeMaster and Johnson: AN ACT relating to the Court of Justice and

making an appropriation therefor.

HB 513, by Representative Long: AN ACT relating to statutory liens.

HB 514, by Representatives LeMaster and Deskins: AN ACT relating to surface mining and declaring an emergency.

HB 515, by Representative O'Brien and LeMaster: AN ACT relating to state purchasing.

HB 516, by Representatives McElroy, Stone, and Brinkley: AN ACT relating to motor vehicle registration.

HB 517, by Representative Clarke: AN ACT relating to alcoholic beverage control.

HB 518, by Representatives Perkins, Maggard, Cyrus, Dawahare, Brown, Brinkley, Stumbo, Blevins, Endicott, Head, Noland, Ford, Cline, Noe, F. Smith, and Reinhardt: AN ACT relating to public utility services to volunteer fire departments.

HB 519, by Representatives Little and Stumbo: AN ACT relating to motor vehicles.

HB 520, by Representative Yates: AN ACT relating to higher education.

HB 521, by Representative T. Jones: AN ACT relating to rate adjustments by small utilities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 434.**

Judiciary-Criminal: **HB 478.**

Labor and Industry: **HB 349, HB 335, HB 432, HB 443, HB 466, HB 89, HB 353.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Labor and Industry: **HB 434.**

Motions, Petitions, and Communications (continued)

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 41, HB 59**; Representative Donnermeyer, **HB 434**; Representative Ford, **HB 311**; Representative Fryman, **HB 32**; Representative Guenthner, **HB 311**; Representative Head, **HB 439**; Representative Heleringer, **HB 486**; Representative Layman, **HB 311**; Representative Long, **HB 495**; Representative Patrick, **HB 498**; Representative Petty, **HB 311, HB 495**; Representative Stumbo, **HB 177**; Representative Turner, **HB 311**; Representative Yates, **HB 486.**

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions: Representative Bronger, **HB 482**; Representative Head, **HB 75.**

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 4 to **HB 67,** by Representative Clapp:

Amend printed copy of **HB 67,** page 3, line 23, delete everything on the line after "*(6)*" page 3, line 24, delete the words: "*tive date of this Act*"

Floor Amendment No. 5 to **HB 67**, by Representative Clapp:

Amend printed copy of **HB 67**, page 3, line 23, delete everything on the line after "*(6)*"

page 3, line 24, delete "*tive day of this Act*"

page 3, line 25, delete "*the United States*" and insert in lieu thereof the words "*a state which is contiguous to this state*;

Floor Amendment No. 6 to **HB 67**, by Representative Donnermeyer:

Amend printed copy of **HB 67**, page 12, after line 11, by adding:

"Section 5. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsection (2) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest thereon, buying and selling exchange, coin and bullion and lending money on personal or real security.

(2) Any corporation presently or hereafter engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner of banking and securities for permission to establish, within the city in which either the principal office or an existing branch office which has been annexed into the city is located and, subject to the limitation hereinafter imposed, within the county in which its principal office is located a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner of banking and securities shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and prompted thereby and that there is reasonable probability of the successful operation of such branch. No such branch shall be authorized or approved by the commissioner unless all of the following are complied with:

(a) No such corporation having a combined capital and surplus of less than $100,000 shall be permitted to establish any branch. Any corporation applying for permission to establish a branch shall be required to have a minimum combined capital and surplus for each branch applied for in accordance with the following table:

If the principal office is located in:
1. An unincorporated area or in a city of 7,999 population or less $100,000
2. City with population of 8,000 to 19,999 .... $200,000
3. City with population of 19,999 and over one branch may be authorized for every $250,000 of capital and surplus.

Said population is to be determined by the last census or any future census of the United States.

(b) [~~No such corporation shall be permitted to establish a branch in any incorporated city, other than in the city in which either the principal office or an existing branch office which has been annexed into the city is located, in which there is an existing bank. Nor shall any such corporation be permitted to establish a branch in any unincorporated area within a radius of one (1) mile of an existing bank located in such unincorporated area. As used in this subsection, an "existing bank" shall mean the principal office of a bank as distinguished from a branch thereof.~~

~~(c)~~] The permission to open a branch shall lapse one year after the commissioner has rendered a final order, as defined in KRS 287.062, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for whatever period of time he deems to be necessary.

(3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank, may continue to retain and operate the same under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any such existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of such banks, nor to prohibit the sale of any bank to, and the purchase thereof by, any other bank in the same county and the operation of such bank by the purchasing bank as a branch, provided the commissioner of banking and securities shall determine that the

public convenience and necessity will be served by such operation, and provided further that, at the time of such merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more.

(5) Any national banking association or any state bank member of the federal reserve system whose principal office is located in this state is hereby authorized to do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of such powers.

(6) When a branch or agency bank has once been established any operation thereof shall not be discontinued, and said branch or agency bank shall not be closed until after ninety (90) days notice in writing to the commissioner. In the discretion of the commissioner said branch or agency bank proposing to discontinue operation may be required to give notice of the date when such operation will cease."

Floor Amendment No. 7 to **HB 67**, by Representative Clapp:

Amend printed copy of **HB 67**, page 3, line 23, delete everything on the line after "*(6)*"

page 3, delete lines 24, 25, 26.

page 4, delete lines 1 through 12.

page 3, line 23, by inserting after "*(6)*" the following:

"*(a) Any bank holding company having its principal place of business in a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section.*

(b) From and after two (2) years after the effective date of this Act any bank holding company having its principal place of business in a state other than a state which is contiguous to this state may acquire control of any bank or bank holding company having its principal place of business in this state, if the state wherein the bank holding company has its principal place of business shall authorize the acquisition of control of a bank or bank holding company in that state by a bank holding company having its principal place of business in this state under conditions substantially no more restrictive than those imposed by this section.

(c) For the purposes fo this subsection, a bank holding company shall be deemed to be located or have its principal place of business in the state or other jurisdiction in which the total deposits of all the bank holding company's banking subsidiaries are largest."

Floor Amendment No. 8 to **HB 67**, by Representative Maggard:

Amend printed copy of House Committee Amendment No. to **HB 67**, on page 1, lines 12-14; page 2, lines 1-14; and on page 3, lines 1-8, by deleting all of said lines.

Floor Amendment No. 1 to **HB 71**, by Representative Mann:

Amend printed copy of **HB 71**, on page 1, after line 4, by adding the following language:

Section 2. KRS 244.130 is amended to read as follows:

(1) Except in conformity with regulations of the board, no licensee under KRS 243.020 to 243.670 shall:

(a) Advertise or cause or permit to be advertised in any manner any product which he is licensed to manufacture or sell; nor

(b) Have or exhibit in a window any display of alcoholic beverages.

(2) Subsection (1) of this section shall not prohibit:

(a) Advertising in newspapers, magazines or periodicals having a general circulation [~~among regular paying subscribers or patrons~~];

(b) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;

(c) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams.

Floor Amendment No. 1 to **HB 126,** by Representative Kenton:

Amend printed copy of **HB 126,** on page 1, line 5, by deleting the phrase "*at the governor's pleasure*" and inserting in lieu thereof the phrase "*for a term of one (1) year*";

and on page 1, line 5, by adding the following at the end of line 5: "*No one (1) person shall be appointed state geographer for two (3) terms in succession nor shall the state geographer be from the same institution of higher education as the person immediately preceding him as state geographer.*"

Floor Amendment No. 1 to **HB 268,** by Representative Morris:

Amend printed copy of **HB 268,** on page 1, line 17, after the word "lights" by adding the following: "*or such blue lights*"

Floor Amendment No. 2 to **HB 314,** by Representative Nett:

Amend printed copy of **HB 314,** on page 3, line 16, by deleting the words, "*three thousand dollars*" and inserting in lieu thereof "*eighteen hundred dollars*"; and

on page 3, line 17, by deleting the number "*(3,000)*" and inserting in lieu thereof "*($1,800)*".

Announcements

The following meetings were announced:

Committee on Rules: On adjournment, State Reception Room.

Energy: 9:00 a.m., tomorrow.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, February 2, 1984.

On the roll call the vote was yeas 71-Allen, Arnold, Bendl, Bennett, Blevins, Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Hancock, Harper, Head, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefever, LeMaster, Lile, List, Little, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Williams. Nays 1-Perkins.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 2, 1984

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Father Theodore Keller, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 1, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 522, by Representatives Moberly, T. Jones, and Barrows: AN ACT relating to oil and gas.

HR 45, by Representative Van Horn: A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorable meteorological prognostication.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 102.**

Business Organizations and Professions: **HB 517, SB 105.**

Counties and Special Districts: **HB 507.**

Education: **HB 502, HB 520.**

Energy: **HB 518, HB 521, SB 101, SB 110.**

Health and Welfare: **HB 509, HB 505.**

Judiciary-Civil: **HB 503, HB 510, HB 511, HB 512, HB 513.**

Judiciary-Criminal: **HB 504.**

Labor and Industry: **HB 508.**

Natural Resources and Environment: **HB 514.**

State Government: **HB 506, HB 515, SB 79, SCR 14.**

Transportation: **HB 516, HB 519.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **SB 8, SB 51.**

Report of Committees

The Committee on Rules reported **HB 23, HB 24, HB 43, HB 268,** and **HB 214** have been posted for passage in Orders of the Day, February 3, 1984.

The Committee on Rules reported **HB 26** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Banking and Insurance reported **HB 394,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 394, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers issuing individual health insurance policies in this state shall pay a claim for any covered services within thirty (30) working days after the claim for the covered services has been filed. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of twelve percent (12%) on the amount of the covered service paid by the insurer.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers issuing any group insurance or blanket health insurance policy or contract in this state shall pay a claim for any covered services within thirty (30) working days after the claim for the covered services has been filed. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of twelve percent (12%) on the amount of the covered service paid by the insurer.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All nonprofit hospital, medical-surgical, dental and health service corporations issuing policies in this state shall pay a claim for any covered services within thirty (30) working days after the claim for the covered services has been filed. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of twelve percent (12%) on the amount of the covered service paid by the insurer.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations issuing policies in this state shall pay a claim for any covered services within thirty (30) working days after the claim for the covered services has been filed. If a claim for covered services is paid after the thirty (30) day period, the insurer shall pay to the insured interest at the rate of twelve percent (12%) on the amount of the covered service paid by the insurer.

The Committee Amendment No. 1 to **HB 394** is as follows:

Amend printed copy of **HB 394** on page 1, line 5, by deleting the words "*after the claim*";

on page 1, line 6, by deleting the words "*for the covered services has been filed.*";

on page 1, line 5, after the word "*days*" by inserting "*of receipt of due written proof of loss.*";

on page 1, line 16, by deleting the words "*after the claim for the covered services has*";

on page 1, line 17, by deleting the words "*been filed.*";

on page 1, line 16, after the word "*days*" by inserting "*of receipt of due written proof of loss.*";

on page 2, line 6, by deleting the words "*after the claim for the covered*";

on page 2, line 7, by deleting the words "*services has been filed.*";

on page 2, line 6, after the word "*days*" by inserting "*of receipt of due written proof of loss.*"

on page 2, line 16, by deleting the words "*after the claim for the*";

on page 2, line 17, by deleting the words "*covered services has been filed.*";

on page 2, line 16, after the word "*days*" by inserting "*of receipt of due written proof of loss.*".

The Committee Amendment No. 2 to **HB 394** is as follows:

Amend printed copy of **HB 394** on page 1, line 9, after "*(12%)*" by inserting "*per annum*";

on page 1, line 20, after "*(12%*" by inserting "*per annum*";

on page 2, line 10, after "*(12%*" by inserting "*per annum*";

on page 2, line 20, after "*(12%*" by inserting "*per annum*".

The Committee on Education reported **HB 127** with Committee Substitute attached thereto. **HB 309** with Committee Amendment attached thereto, **HB 317**, **HB 318**, and **HB 336** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 127, AN ACT relating to educational improvement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.690 is amended to read as follows:

The department shall develop and implement a statewide assessment program in accordance with the following:

(1) This program shall be for the purpose of measuring and reporting student progress and achievement in the basic skills in grades 3, 5, 7 and 10 and other product goal areas as determined by the state board of education upon recommendation of the superintendent of public instruction;

(2) Appropriate tests shall be administered annually;

(3) Results of these tests shall be compiled on a statewide, district and school basis by the department and *shall* be *reported* [~~made available~~] to the governor, the state advisory committee for educational improvement, the legislative research commission, the state board of education, and local boards of education. *The report of scores by schools shall be a summary of results in each subtest area by grade level*;

(4) The results of these tests shall be used by local boards of education for the development of educational improvement plans and shall not be used for the evaluation of teachers or administrators for the purpose of promotion, demotion, transfer, or dismissal.

The Committee Substitute to **HB 127** is as follows:

HB 127, AN ACT relating to educational improvement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.690 is amended to read as follows:

The department shall develop and implement a statewide assessment program in accordance with the following:

(1) This program shall be for the purpose of measuring and reporting student progress and achievement in the basic skills in grades 3, 5, 7 and 10 and other product goal areas as determined by the state board of education upon recommendation of the superintendent of public instruction;

(2) Appropriate tests shall be administered annually;

(3) Results of these tests shall be compiled on a statewide, district and school basis by the department and *shall* be *reported* [~~made available~~] to the governor, the state advisory committee for educational improvement, the legislative research commission, the state board of education, and local boards of

education. *The report of scores by schools shall be a summary of results in each basic skills area by grade level as defined in KRS 158.650;*

(4) The results of these tests shall be used by local boards of education for the development of educational improvement plans and shall not be used for the evaluation of teachers or administrators for the purpose of promotion, demotion, transfer, or dismissal.

HB 309, AN ACT relating to class sizes in elementary and secondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for kindergarten, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) (a) In allotting classroom units for elementary and secondary schools, one (1) classroom unit shall be included for each *twenty-five (25) pupils in average daily attendance in grades one (1) through three (3) and for each* twenty-seven (27) pupils in average daily attendance in grades *four (4)* [~~one (1)~~] through twelve (12); provided, however, that one (1) classroom unit shall be included for each isolated one-teacher school with twelve (12) or more pupils in average daily attendance and one (1) unit shall be included for each twenty-five (25) pupils in average daily attendance at all other isolated schools. The allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions:

1. An average daily attendance of six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 shall be deducted for each vocational unit allotted; and

2. An average daily attendance of five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 shall be deducted for each exceptional children's unit allotted.

(b) *The superintendent of public instruction shall enforce a maximum class membership of twenty-eight (28) pupils enrolled and in attendance at any one time in kindergarten and grades one (1) through three (3) and a maximum class membership of thirty (30) pupils enrolled and in attendance at any one time in grades four (4) through six (6) except in vocal and instrumental music, art, physical education and special education classes. The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive exemptions for more classes than enroll ten percent (10%) of the pupils in any one grade and shall not receive an exemption for the same class more than once during a five (5) year period.*

(c) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(d)[~~(c)~~] Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 through 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of *subsection* [~~KRS 157.360~~](1) *of this section*, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(3) Allotments of classroom units except those allotted in accordance with subsection (4) of this section, shall be increased when the average daily attendance in grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase.

(4) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those

allotted in accordance with subsection (3) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(5) In allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(6) (a) In allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor. In addition to the classroom units allotted above, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390(6), a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for 185 days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit.

(b) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above cited program to those funds appropriated for this purpose in each biennial budget.

(7) (a) In allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (10) and (12) plus subsections (5) and (6) before July 1, 1976 shall be divided by eight (8) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(b) The total number of units allotted under subsection (5) beyond those allotted in the school year 1975-76 times six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 average daily attendance plus the total number of units allotted under subsection (6) beyond those allotted in the school year 1975-76 times five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 average daily attendance shall be divided by two hundred and sixteen (216) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(c) The total of subsection (a) plus subsection (b) shall be the number of classroom units allotted the district for administrative and special instructional services as authorized by Kentucky administrative regulations of the state board of education.

(8) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (5), (6), (10) and (12); one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(9) In allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2). For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(10) In allotting classroom units for kindergarten, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for kindergarten. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(11) In allotting classroom units for superintendent, one unit shall be allotted each school district.

(12) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

The Committee Amendment No. 1 to **HB 309** is as follows:

Amend printed copy of **HB 309** on page 1, lines 19 and 20, delete all new material;

on page 2, lines 1 and 2, delete all new material, remove brackets and strikethrough;

on page 2, lines 21 through 26, delete new material and insert in lieu thereof: "*The superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1)*";

on page 3, line 2, after the "." insert the following: "*The maximum number of pupils enrolled in a class shall be calculated by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget.*".

HB 317, AN ACT relating to school taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.593 is amended to read as follows:

(1) Any board of education of a school district may, after compliance with the public hearing requirement contained in KRS 160.603, levy [~~one (1) of the~~] school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648. The imposition of any tax levied under the provisions of 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 shall be limited to the territory of the school district except as provided in subsection (2) of this section.

(2) Two (2) or more boards of education may agree in writing to levy identical school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633. After the levying in each district so agreeing of a tax under the terms of such agreement, the receipts from said tax shall be held in a common fund and disbursed therefrom to each district on the basis of average daily attendance, as set forth in KRS 160.644. Any districts levying taxes under the terms of such an agreement shall be deemed to constitute a combined taxing district for the purposes of reference in KRS Chapter 160.

Section 2. The following KRS sections are repealed:

160.595 Only one tax to be in effect at any time time.

160.608 Authorization for levy of either or both utility gross receipts tax and excise tax on income, in addition to occupational license taxes.

160.609 Procedure for recall of levy.

HB 318, AN ACT relating to school month and school day.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.060 is amended to read as follows:

Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the state board *of* [~~for elementary and secondary~~] education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as school days. No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the state board *of* [~~for elementary and secondary~~] education. *For each six (6) hours of classroom teaching per day, each teacher shall be provided with a duty-free lunch period of not less than thirty (30) minutes.* Except for children attending kindergarten, readiness classes, first grade classes, and the handicapped, who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the state board *of* [~~for elementary and secondary~~] education, six (6) hours of actual school work shall constitute a school day. The daily session, including recesses and intermissions, shall not exceed nine (9) hours. A local board of education, with the approval of the state board *of* [~~for elementary and secondary~~] education, may extend the regular school day, when necessary, to make up days missed as a result of emergency, providing that the extended school day shall not exceed nine (9) hours. If a school district has adopted an extended school day before such emergency, the time in excess of the minimum school day may, with the approval of the state board *of* [~~for elementary and secondary~~] education, be used to make up days missed as a result of emergency.

HB 336, AN ACT relating to educational technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 168.010 is amended to read as follows:

It is declared to be the legislative purpose of KRS 168.010 to 168.100, and the public policy of the Commonwealth, that*:*

(1) In order to encourage and assist in the education of the citizens of the Commonwealth, modern technology, including telecommunications, television, computers and other technology shall be developed, disseminated and utilized for educational purposes to the maximum extent possible.

(2) There be established, developed and utilized in the public interest a network of educational television production and related facilities and transmission and relay stations such as will ultimately make available to students in public schools and state-supported institutions of higher education in the Commonwealth, and to any others who may choose to utilize the same, television programs and related services in aid of education, and for incidental use in other proper functions;

(3) There be developed, disseminated and utilized, educational computer software, programs of computer instruction, and other computer-related instructional services in order to fully allow the application of computers and computer technology to the educational process of the citizens of the Commonwealth and assist in the development of computer literacy and proficiency.

(4) There be developed, disseminated and utilized teleconferencing, data transmission, teletext production and transmission, and other telecommunications function which may evolve in the future and which will serve education and the general public; and

(5) [~~That~~] The same be managed, controlled and operated in the public interest by an independent corporate agency and instrumentality of the Commonwealth having membership such as to be representative of the general public as well as public educational bodies at all levels.

Section 2. KRS 168.030 is amended to read as follows:

An independent agency and instrumentality of the Commonwealth is hereby created and established to be known as *"the Kentucky authority for educational technology," which as of the effective date of this Act shall replace* "the Kentucky authority for educational television," the same being a public body corporate and politic, with perpetual succession, the power in its own name to contract and be contracted with, sue and be sued, to adopt and use a corporate seal, to adopt by-laws for the orderly conduct of its affairs, and to alter the same from time to time, to prescribe and enforce regulations governing the use of educational television and television facilities and related functions and facilities, and generally to have and use all powers of private corporations as set forth in KRS Chapter 271A, except as the same may be inconsistent with the provisions of KRS 168.010 to 168.100.

Section 3. KRS 168.020 is amended to read as follows:

As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance, the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky authority for educational *technology* [~~television~~];

(2) "Board" means the state board for elementary and secondary education;

(3) "Department" means the state department of education;

(4) "Public schools" means the state-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the state property and buildings commission of Kentucky;

(6) "Council" means the council on higher education in Kentucky;

(7) "University of Kentucky" means the University of Kentucky as one (1) entity, including its present and future extensions;

(8) "State colleges and universities" means and includes Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and the University of Louisville; but does not include any present or future state supported junior colleges, unless by statute the same are given representation on the council;

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization:

(a) Which may be used in aid of education in the public schools and state-supported institutions of higher education, and

(b) For limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television;

(11) "Related functions" or "related services" means and includes the use of facilities operated or leased by the authority, or which may be added or connected to such facilities as permitted by applicable statutes, and to prepare, transmit, or enable the exchange of nontelevision programs, services or functions for and among the public schools, state-supported institutions of higher education, and other state agencies:

(a) In aid of education, and

(b) For use in other proper public functions; provided, however, that such related functions or related services may include, but are not limited to, the following examples: computer-assisted instruction, data for teaching or administrative purposes, and educational noncommercial radio;

(12) "Related facilities" means and includes sites, buildings, structures, machinery, equipment and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of related functions or services.

Section 4. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government - Departments headed by elected officers:
1. The governor.
2. Lieutenant governor.
3. Department of state.
(a) Secretary of state.
(b) Board of elections.
4. Department of law.
(a) Attorney general.
5. Department of the treasury.
(a) Treasurer.
6. Department of agriculture.
(a) Commissioner of agriculture.
7. Department of education.
(a) Superintendent of public instruction.
(b) State board of education.
8. Auditor of public accounts.
9. Railroad commission.
II. Program cabinets headed by appointed officers:
1. Justice cabinet:
(a) Department of public advocacy.
(b) Department of state police.
(c) Department of training.
(d) Office of administration.
2. Education and humanities cabinet:
(a) Department for the blind.
(b) Department of education.
(c) Department for libraries and archives.
(d) Commission on human rights.
(e) Kentucky commission on women.
(f) State advisory council for vocational education.
(g) Kentucky industries for the blind.
(h) Kentucky educational *technology* [~~television~~].
(i) Kentucky historical society.
(j) Kentucky teachers retirement system board of trustees.
(k) Kentucky school building authority.
3. Natural resource and environmental protection cabinet:
(a) Environmental quality commission.
(b) Kentucky nature preserves commission.
(c) Department for environmental protection.
(d) Department for natural resources.

(e) Department for surface mining reclamation and enforcement.
(f) Office of special projects.
(g) Office of administration.
(h) Office of general counsel.
(i) Office of communications and community affairs.
4. Transportation cabinet:
(a) Department of highways.
(b) Department of vehicle regulation.
(c) Office of administration and legal affairs.
(d) Office of comptroller.
(e) Office of legal affairs.
(f) Kentucky turnpike authority.
(g) Kentucky housing corporation.
(h) Kentucky airport zoning commission.
5. Commerce cabinet:
(a) Department of economic development.
(b) Department of the arts.
(c) Department of fish and wildlife resources.
(d) Department of parks.
(e) Kentucky development finance authority.
(f) Kentucky horse park.
6. Public protection and regulation cabinet:
(a) Public service commission.
(b) Department of insurance.
(i) Custodian of insurance securities.
(c) Department of labor.
(i) Workers compensation board.
(ii) Occupational safety and health standards board.
(iii) State labor relations board.
(d) Department of housing, buildings, and construction.
(e) Department of banking and securities.
(f) Department for mines and minerals.
(g) Department for alcoholic beverage control.
(h) Kentucky harness racing commission.
(i) Kentucky state racing commission.
(j) Kentucky occupational safety and health review commission.
(k) Registry of election finance.
(l) Board of claims.
(m) Crime victims compensation board.
(n) Kentucky board of tax appeals.
(o) Backside improvement commission.
7. Cabinet for human resources:
(a) Department for health services.
(b) Department for manpower services.
(c) Department for social insurance.
(d) Department for social services.
(e) Unemployment insurance commission.
(f) Public assistance appeals board.
(g) Office of administrative services.
(h) Office of communications and council affairs.
(i) Office of general counsel.
(j) Office of inspector general.
(k) Office of policy and budget.
(l) Office of the ombudsman.
8. Finance and administration cabinet:
(a) Office for policy management.
(b) Office for program administration.
(c) Department for administration.
(d) Department of facilities management.
(e) Department of personnel.
(f) Department of information systems.
(g) State property and buildings commission.

(h) Kentucky pollution abatement authority.
(i) Kentucky savings bond authority.
(j) Deferred compensation systems.
(k) Office of equal employment opportunity contract compliance.
(l) Capital plaza authority.
(m) County officials compensation board.
(n) Financial disclosure review commission.
(o) Kentucky employes retirement systems.
(p) Commonwealth credit union.
(q) State investment commission.
9. Energy and agriculture cabinet:
(a) Department of agriculture (headed by elected officer).
(b) Department of energy production and utilization.
(c) Department of energy research and development.
(d) Office of administration.
(e) Office of policy and evaluation.
(f) Kentucky state fair board.
(g) Kentucky council on agriculture.
(h) Kentucky fair and exposition center.
(i) Tobacco research board.
10. Corrections cabinet:
(a) Parole board.
(b) Commission on corrections and community services.
(c) Department of adult correctional institutions.
(d) Office of community services.
(e) Office of administrative services.
(f) Office of corrections training.
(g) Office of general counsel.
III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of revenue.
3. Council on higher education.
4. Department of local government.

Section 5. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational *Technology* [~~Television~~];

(f) Employes of Kentucky Educational *Technology* [~~Television~~] who have been determined to be exempt from classified service by the Kentucky Authority for Educational *Technology* [~~Television~~], which shall have sole authority over such exempt employes for employment, dismissal and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsections (1)(e), (1)(g) and (1)(h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employes of such institutions; and officers, teachers, and employes of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45.700 to 45.720;

(p) Seasonal, temporary, and emergency employes;

(q) Federally funded time-limited employes;

(r) Officers and members of the state militia;

(s) State police troopers and sworn officers in the *department* [~~bureau~~] of state police, [~~department of~~] justice *cabinet*;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 6. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating department after the date such department first participates in the system;

(2) All persons who are employes of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following such department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.510 to 61.692;

(3) All persons who are employes of any credit union whose membership is limited to employes of state government;

(4) All persons who were professional staff employes of the council on higher education or the higher education assistance authority and were contributing to the system on the effective date of executive order 74-762 or 75-964 respectively and file a written election of their desire to continue in the system; and

(5) All persons who were professional staff employes of the Kentucky authority for educational *technology* [~~television~~] on and after July 1, 1974.

Section 7. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employes of the general assembly, including employes of the legislative research commission, members of boards and commissions, those officers and employes of Kentucky Educational *Technology* [~~Television~~] exempt from classified service as provided in KRS 18A.115, presidents and employes of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the department of personnel shall prepare a schedule of compensation, payable out of the state treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employe, including specifically the offices and positions of employment in every constitutional administrative

department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the department of personnel shall ascertain and record the duties, responsibilities and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been approved by the governor.

(2) The governor shall set the compensation payable out of the state treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the amount provided for compensation to the governor in KRS 64.480, the provisions of KRS 64.660 to the contrary notwithstanding.

(3) The compensation payable out of the state treasury to officers and employes subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employes of the public service commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the department of personnel with the approval of the governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employes of the state.

The Committee on Energy reported **HB 329,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 329, AN ACT relating to management and operation audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall provide for periodic management and operation audits of each utility with annual operating revenues not less than one hundred million dollars ($100,000,000) to investigate management effectiveness and operating efficiency. The commission shall complete or provide for a full and comprehensive audit of each such utility prior to January 1, 1990. After the initial audit of any utility, the commission may order a subsequent audit of that utility focusing on issues disclosed by the initial audit.

(2) The commission may provide for management and operations audits of any utility under its jurisdiction on a regular or irregular schedule to investigate all or any portion of the management and operating procedures or any other internal workings of the utility.

(3) Audits provided under this section may, at the discretion of the commission, be performed by the commission staff or by a competent, qualified and independent firm. When the commission orders an audit to be performed by an independent firm the commission shall select the audit firm, which shall work for and under the direction of the commission, with the cost to be borne by the utility. The commission may include the cost of conducting any management audit in the cost of service of the utility for ratemaking purposes.

(4) The commission shall adopt rules and regulations setting forth the scope and application of audits, and procedures for the conduct of management and operations audits. The audit procedures shall provide the utility being audited the opportunity to comment at various stages of the audit, including an opportunity to comment on the initial work plan and the opportunity to review and comment on preliminary audit drafts prior to issuance of a final document. The results of all audits shall be filed with the commission and shall be open to public inspection.

Section 2. The public service commission shall initiate a full and complete management audit of the management effectiveness and efficiency of the commission, by a competent, qualified and independent firm. Such audit shall be monitored by the legislative program review and investigations committee, and the results of the audit shall be reported to the 1986 General Assembly.

The Committee Substitute to **HB 329** is as follows:

HB 329, AN ACT relating to management and operation audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall provide for periodic management and operation audits of each utility with annual intra-Kentucky assessable revenue as of December 31, 1983 under KRS 278.150(1) not less than one hundred million dollars ($100,000,000) to investigate management effectiveness and operating efficiency. The commission shall complete or provide for a full and comprehensive audit of each such utility prior to January 1, 1990. After the initial audit of any utility, the commission may order a subsequent audit of that utility focusing on issues disclosed by the initial audit. A full and comprehensive audit of any utility initiated prior to the effective date of this Act may be deemed to satisfy the requirements of this subsection if the audit was required and directed by the commission and completed after July 1, 1983.

(2) The commission may provide for management or operations audits, or both, of any utility under its jurisdiction on a regular or irregular schedule to investigate all or any portion of the management and operating procedures or any other internal workings of the utility.

(3) Audits provided under this section may, at the discretion of the commission, be performed by the commission staff or by a competent, qualified and independent firm. When the commission orders an audit to be performed by an independent firm, the commission shall select the audit firm, which shall work for and under the direction of the commission, with the cost to be borne by the utility. The commission shall include the cost of conducting any audits required in this section in the cost of service of the utility for ratemaking purposes.

(4) The commission shall adopt rules and regulations setting forth the scope and application of audits, and procedures for the conduct of management and operations audits. The audit procedures shall provide the utility being audited the opportunity to comment at various stages of the audit, including an opportunity to comment on the initial work plan and the opportunity to review and comment on preliminary audit drafts prior to issuance of a final document. The results of all audits shall be filed with the commission and shall be open to public inspection.

Section 2. The public service commission shall initiate a full and complete management audit of the management effectiveness and efficiency of the commission. The audit shall be performed by a competent, qualified and independent firm selected by the auditor of public accounts. Such audit shall be monitored by the legislative program review and investigations committee, and the results of the audit shall be reported to the 1986 General Assembly.

The Committee on Judiciary-Criminal reported **HB 196, HB 231, HB 433,** and **SB 57** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 196, AN ACT relating to rape examinations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.400 is amended to read as follows:

(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

(2) Every hospital of this state which offers emergency services shall provide that a physician is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140. The physician shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence.

(3) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling will not include abortion counseling or referral information.

(4) Notwithstanding any other provision of law, a minor may consent to examination under this section. Such consent is not subject to disaffirmance because of minority and consent of the parents or guardians of the minor is not required for such examination.

(5) The examinations required under this section shall be paid for by the office of the attorney general at a rate to be determined by the attorney general by administrative regulation. No charge shall be made to the victim for such examinations, either by the hospital, the victim's insurance carrier, or the Commonwealth.

HB 231, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.025 is amended to read as follows:

(1)(a) Upon conviction of a defendant in cases where the death penalty may be imposed a hearing shall be conducted. In such hearing the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas: Provided, however, that only such evidence in aggravation as the State has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment.

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating Circumstances.

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions.

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree, or sodomy in the first degree.

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one person in a public place by means of a destructive device weapon or other device which would normally be hazardous to the lives of more than one person.

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit.

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties.

6. The offender's act or acts of killing were intentional and resulted in multiple deaths.

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties.

8. The offender's act of killing was intentional and the victim was an elected public official.

(b) Mitigating Circumstances.

1. The defendant has no significant history of prior criminal activity.

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime.

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act.

4. The capital offense was committed under circumstances which the defendant believed to provide a

moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime.

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor.

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime.

7. At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime.

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. In all cases unless at least one of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty shall not be imposed.

HB 433, AN ACT relating to cruelty to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals *in the second degree* when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, *participates other than as provided in Section 2 of this Act in* causing it to fight for pleasure or profit, *(including, but not limited to being a spectator or vendor at an event where a four legged animal is caused to fight for pleasure or profit)* mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For any other purpose authorized by law.

(3) Cruelty to animals *in the second degree* is a Class A misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) Cruelty to animals in the first degree is a Class D felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of this Act, shall be confiscated and turned over to the county dog warden appointed pursuant to KRS 258.195, if there are reasonable grounds to believe that such animals were on the property for the purpose of fighting.

SB 57, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any circuit court may, upon motion of the defendant made not earlier than thirty (30) days nor later than ninety (90) days after the defendant has been *incarcerated in a county jail following his conviction pending delivery to the institution to which he has been sentenced,* or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon such terms as the court determines. *Time spent on any form of release following conviction shall not count toward time required under this section.*

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) The provisions of this section shall not apply where a sentence of death has been imposed.

The Committee Amendment No. 1 to **SB 57** is as follows:

Amend printed copy of **SB 57** on page 1, line 8, following "*viction*" to add "*and sentencing*".

The Committee Amendment No. 2 to **SB 57** is as follows:

Amend printed copy of **SB 57** on page 2, following line 14, to add the following:

"Section 3. Whereas shock probation is an essential tool of the criminal justice system to help control recidivism and is an alternative the judiciary can use to help ease jail and prison overcrowding, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor."

The Committee Title Amendment to **SB 57** is as follows:

Amend printed copy of **SB 57**, the Title, following the word "punishments" to add ", and declaring an emergency".

Calendar

HB 322, HB 119, HB 351, HB 358, HB 387, HB 411, HB 41, HB 256, HB 421, HB 303, HB 369, HB 388, HB 420, HB 47, HB 106, HB 107, HB 108, HB 110, HB 132, HB 370, HB 377, HB 410, HJR 8, HJR 9, and **SB 37** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 126, with Floor Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved the adoption of the Floor Amendment No. 1 to **HB 126**. Agreed.

Representative Kenton moved that **HB 126,** as amended, be passed.

On the roll call the vote was yeas 79-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Cline, Cowan, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Noe, O'Brien, Patrick, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams. Nay 15-L. Clark, Clarke, Curd, Farrow, Ford, Fryman, Heleringer, R. Jones, Moore, Noland, Pearman, Priddy, Robinson, Todd, Yates.

HB 126, as amended, was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 126,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 71, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Floor Amendment No. 1 to **HB 71.** Agreed.

Representative Bronger moved that **HB 71,** as amended, be passed.

On the roll call the vote was yeas 65-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Freibert, Gedling, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Perkins, Petty, Priddy, Reinhardt, Richards, B. Richardson, P. Richardson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Yates. Nays 23-Allen, Arnold, Burnette, Crupper, Cyrus, Ellington, Farrow, Ford, Fryman, Gray, Layman, Lefevers, Little, McNutt, Noe, Pearman, Rapier, Rattliff, Robinson, B. Smith, Todd, Turner, White.

HB 71, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 71,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 67, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Amendment No. 1 to **HB 67.** Agreed.

Representative Bruce moved that **HB 67,** as amended, be passed.

Representative Clapp moved the adoption of the Floor Amendment No. 7 to **HB 67.** Agreed.

Representative Bruce moved that **HB 67,** as amended, be passed.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 6 to **HB 67.** Rejected.

Representative Dawahare moved the adoption of the Floor Amendment No. 1 to **HB 67.**

On the roll call the vote was yeas 30-Blevins, Brinkley, Brown, Burnette, L. Clark, Cline, Crupper, Cyrus, Dawahare, Donnermeyer, Farrow, Ford, Foster, Fryman, Gedling, Hancock, Heleringer, T. Jones, Maggard, Noland, Pearman, Perkins, Petty, Rapier, P. Richardson, Seum, Stone, Todd, Williams, Worthington. Nays 51-Allen, Bendl, Bennett, Bronger, Bruce, Burch, Caldwell, Clapp, P. Clark, Clarke, Cowan, Craddock, Curd, Deskins, Ellington, Endicott, Freibert, Gray, Guenthner, Handy, Harper, R. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Moberly, Morris, Nett, Patrick, Priddy, Reinhardt, Richards, Robinson, F. Smith, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Yates.

Floor Amendment No. 1 to **HB 67** was rejected.

Representative Maggard moved the adoption of the Floor Amendment No. 8 to **HB 67.** Rejected.

Representative Mann moved that the rules be suspended to consider an amendment officially filed today.

On the roll call the vote was yeas 22-Allen, Barrows, Brown, Caldwell, L. Clark, P. Clark, Cyrus, Endicott, Hancock, Harper, Heleringer, Holbrook, Lile, Mann, Meyer, Noe, Petty, Rapier, Rattliff, Reinhardt, Stone, Yates. Nays 30-Blevins, Burnette, Clarke, Cline, Curd, Dunn, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Head, R. Jones, Kidd, LeMaster, List, Long, Lundergan, McElroy, Pearman, Seum, Thomason, Todd, Turner, Van Horn, White.

The motion that the rules be suspended was rejected.

Representative Harper moved that **HB 67**, as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 21-Allen, Caldwell, L. Clark, Clarke, Cyrus, Donnermeyer, Harper, Heleringer, Hines, T. Jones, Lile, Maggard, Mann, McBee, Meyer, Moberly, Noland, Petty, Rattliff, Reinhardt, Williams. Nays 61-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burnette, Clapp, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Deskins, Dunn, Ellington, Farrow, Ford, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Head, R. Jones, Kidd, LeFevers, LeMaster, List, Little, Long, Lundergan, McElroy, McNutt, Morris, Nett, Patrick, Pearman, Perkins, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates.

The motion that **HB 67**, as amended, be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 56-Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Deskins, Dunn, Ellington, Endicott, Freibert, Gray, Guenthner, Handy, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Lundergan, McNutt, Moore, Morris, Nett, Noe, O'Brien, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, B. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Yates. Nays 42-Allen, Arnold, Barrows, Brown, Burnette, Caldwell, L. Clark, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Farrow, Ford, Foster, Fryman, Gedling, Hancock, Harper, Head, T. Jones, Layman, Long, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Noland, Patrick, Pearman, Perkins, Petty, Rapier, Reinhardt, Robinson, Seum, F. Smith, Todd, Turner, Worthington.

HB 67, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 67**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 57, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Substitute to **HB 57**. Agreed.

Representative LeMaster moved that **HB 57**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 2-McElroy, McNutt.

HB 57, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 57**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314, as amended by Committee Amendment No. 1 and Floor Amendment No. 1, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Perkins moved that Floor Amendment No. 1 to **HB 314** be reconsidered. Agreed.

Representative Nett moved the adoption of the Floor Amendment No. 2 to **HB 314.** Agreed.

Representative Nett moved that **HB 314,** as amended, be passed.

On the roll call the vote was yeas 63-Bendl, Bennett, Blandford, Brinkley, Bronger, Burch, Clapp, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Gedling, Gray, Hancock, Handy, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Williams, Yates. Nays 21-Allen, Blevins, Burnette, Caldwell, L. Clark, Ellington, Foster, Freibert, Fryman, Guenthner, Heleringer, Lefevers, Lile, Moore, Noland, Reinhardt, Robinson, Seum, Todd, Van Horn, Worthington.

HB 314, as amended, was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 314,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 49** had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:28 p.m.)

HB 49 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 225, as amended by Committee Amendment No. 1, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Floor Amendment No. to **HB 225.**

Representative Fryman moved that Floor Amendment No. 1 to **HB 225** be laid on the table.

On the roll call the vote was yeas 23-Allen, Barrows, Craddock, Curd, Deskins, Ford, Foster, Fryman, Gedling, Holbrook, Layman, Lefevers, Long, Maggard, McBee, McElroy, McNutt, Noland, Pearman, Rapier, Reinhardt, Robinson, White. Nays 47-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Cladwell, L. Clark, P. Clark, Clarke, Dawahare, Dunn, Endicott, Farrow, Freibert, Guenthner, Handy, Head, Heleringer, Hines, Johnson, R. Jones, T. Jones, Kidd, LeMaster, Lile, List, Mann, Meyer, Moberly, Moore, Nett, Noe, Perkins, Priddy, Rattliff, B. Richardson, Riner, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Worthington, Yates.

The motion that Floor Amendment No. 1 to **HB 225** be laid on the table was rejected.

Representative Williams moved the adoption of the Floor Amendment No. 1 to **HB 225.** Agreed.

Representative Williams moved that **HB 225,** as amended, be passed.

On the roll call the vote was yeas 16-Blevins, Burch, Crupper, Dunn, Gray, Guenthner, Heleringer, Hines, Kidd, Mann, Nett, Perkins, Priddy, Rattliff, Van Horn, Williams. Nays 73-Allen, Arnold, Barrows, Blandford, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, L. Clark, Clarke, Cline, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Hancock, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Noland, O'Brien, Pearman, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Yates.

HB 225, as amended, was defeated.

Motions, Petitions, and Communications

Representative B. Richardson moved that he be recorded as voting "nay" on **HB 67**. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 523, by Representative Curd: AN ACT relating to teachers' retirement.

HB 524, by Representative Little: AN ACT relating to public school attendance and completion.

HB 525, by Representative Donnermeyer: AN ACT relating to the commission on fire protection personnel standards and education.

HB 526, by Representative Guenthner: AN ACT relating to compulsory school attendance.

HB 527, by Representative Curd: AN ACT relating to elections of school board members.

HB 528, by Representatives T. Jones and Long: AN ACT relating to insurance.

HB 529, by Representative Cowan: AN ACT relating to school principals.

HB 530, by Representatives Nett, Guenthner, Kidd, Hines, Handy, Bendl, Holloway, O'Brien, P. Clark, Lile, Priddy, Burch, Bronger, Heleringer, Riner, Dunn, Yates, L. Clark, Bennett, Williams, and Seum: AN ACT relating to school district finance reporting.

HJR 46, by Representatives Cowan, Hines, Kenton, Lundergan, Perkins, Kidd, Cyrus, Williams, and Seum: A JOINT RESOLUTION ratifying a proposed amendment to the Constitution of the United States.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 440, HB 455.**

Energy: **HB 470.**

Judiciary-Civil: **HB 224, SB 11, HB 376.**

Natural Resources and Environment: **HB 25.**

State Government: **HB 477, HB 10, HR 37, HB 375, HB 450, HB 451, HR 7.**

Transportation: **HB 325, HB 342, HB 143.**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 265**, with Committee

Amendment attached thereto, and **HJR 4,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 265, AN ACT relating to water plant operators.

WHEREAS, water treatment plants and water distribution systems must be properly operated and maintained if safe drinking water is to be provided to Kentucky's citizens; and

WHEREAS, planning for future demand, utilizing sound financial and business procedures, wisely conserving energy and water resources, employing accepted engineering practices, and performing necessary repairs and rehabilitation represent essential activities if water supply facilities are to be professionally managed and relied on to adequately meet current and future needs; and

WHEREAS, water supply system operators need to be aware of new advances and developments and be capable of carrying out essential activities.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 223.160 TO 223.220 IS CREATED TO READ AS FOLLOWS:

Certified operators shall successfully complete a specified continuing education program as a condition of annual certificate renewal. The secretary, with the advice of the board of certification, shall establish rules and regulations for the continuing education program. Training may include, but not be limited to, correspondence courses, short courses, trade association meetings, and on-the-job training, and shall cover necessary competency skills to include, at a minimum, financial and business management, water supply planning, water and energy conservation, repair and maintenance procedures, laboratory techniques, and engineering-related practices.

Section 2. KRS 223.220 is amended to read as follows:

The natural resources and environmental protection cabinet is authorized to fix a reasonable schedule of fees and charges by regulation to be paid by applicants for examinations, certificates, *continuing education programs,* and renewal certificates. All such fees and charges and other moneys collected by the natural resources and environmental protection cabinet under the provisions of KRS 223.160 to 223.220 and 223.991 or the rules and regulations of the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the natural resources and environmental protection cabinet in carrying out the provisions of KRS 223.160 to 223.220 and 223.991.

Section 3. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of Acts 1972 (1st Ex. Sess.), ch. 3, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational, [~~and~~] training, *and technical assistance* programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with Acts 1972 (1st Ex. Sess.), ch. 3, or any rule or regulation which may be promulgated

thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. Such funds received by the cabinet shall be deposited in the state treasury to the account of the cabinet;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;

(14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, rule, regulation or plan specified in subsections (5) and (6) of KRS 224.045;

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of Acts 1972 (1st Ex. Sess.), ch. 3, or the regulations promulgated pursuant thereto and requiring the adoption of such remedial measures as the cabinet may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or the establishment or construction and the operation or maintenance of waste disposal sites and facilities; and require that applications for such permits be accompanied by plans, specifications, and such other information as the cabinet deems necessary;

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of such exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the cabinet may prescribe any equipment, device or test and the methodologies and procedures for the use of such equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning such monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and such other information as the cabinet may require;

(24) Promulgate rules, regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste management which shall contain, but not be limited to, the provisions set forth in KRS 109.031, and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain, but not be limited to, the following:

(a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;

(b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;

(c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of such activities as can be expected to continue for not less than twenty (20) years into the future;

(d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a

particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of such wastes;
The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;

(25) Perform such other and further acts as may be necessary to carry out the duties and responsibilities herein described; and

(26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards.

The Committee Amendment No. 1 to **HB 265** is as follows:

Amend printed copy of **HB 265** on page 4, line 5, by deleting the "," after the word educational.

HJR 4, A JOINT RESOLUTION regarding the water quality standards applicable to Taylorsville Lake.

WHEREAS, the Taylorsville Lake Committee, an executive advisory committee and the Taylorsville Lake Task Force, a special committee of the Legislative Research Commission have determined that effluent should not be discharged into Taylorsville Lake; and

WHEREAS, effluent discharge permits are issued through the Natural Resources and Environmental Protection Cabinet; and

WHEREAS, recreational facilities and sites are presently being developed at Taylorsville Lake which will require provisions be made for the treatment of waste water discharged from such facilities and sites;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Natural Resources and Environmental Protection Cabinet be prohibited from issuing any discharging permits which allow effluent discharges into Taylorsville Lake.

Section 2. That copies of this resolution be forwarded to the Governor, the Commerce Cabinet, the Corps of Engineers and the Natural Resources and Environmental Protection Cabinet.

The Committee Substitute to **HJR 4** is as follows:

HJR 4, A JOINT RESOLUTION regarding the water quality standards applicable to Taylorsville Lake.

WHEREAS, Taylorsville Lake is highly susceptible to nutrient enrichment and accelerated aging (eutrophication) because of shallowness, geology, and activities in the watershed; and

WHEREAS, the Commonwealth, through the Kentucky Water Resources Authority and various state agencies, has invested considerable sums of money in the construction of the Taylorsville Lake Project for recreation and fisheries purposes; and

WHEREAS, inadequately treated wastewater that is introduced into the lake will greatly contribute to diminished lake quality and interfere with and result in the eventual loss of several of the authorized purposes for which the project was constructed; and

WHEREAS, recreational facilities and sites are presently being developed at Taylorsville Lake which will require provisions be made for the treatment of waste water discharged from such facilities and sites; and

WHEREAS, the Taylorsville Lake Committee, an executive advisory committee, and the Taylorsville Lake Task Force, a special committee of the Legislative Research Commission, have determined that wastewater effluent should not be discharged into Taylorsville Lake; and

WHEREAS, effluent discharge permits are issued through the Natural Resources and Environmental Protection Cabinet; and

WHEREAS, the Water Resources Authority is responsible for establishing and enforcing rules and regulations for the use of any project pursuant to KRS 151.370(6);

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Natural Resources and Environmental Protection Cabinet be prohibited from issuing any discharge permits which allow effluent discharges directly into Taylorsville Lake as determined by its highest pool elevation or from issuing any discharge permits which allow inadequately treated effluent discharge into the contributing tributaries that drain the immediate watershed of the lake.

Section 2. That the Natural Resources and Environmental Protection Cabinet scientifically evaluate every proposed wastewater permit application that would discharge into the Salt River or its tributaries above the lake and require appropriate treatment to ensure that the discharge will not adversely affect the lake or its purposes.

Section 3. That the appropriate health departments and plumbing agencies only approve the use of on-site wastewater treatment systems if it is certain that leakage from the systems will not contribute to lake enrichment or bacterial contamination.

Section 4. That the Natural Resources and Environmental Protection Cabinet fully utilize its authority and programs to promote upstream watershed activities that do not contribute to the deterioration of lake quality.

Section 5. That the Natural Resources and Environmental Protection Cabinet regulate such other facilities or activities under its control, such as sanitary landfills, so as to prevent adverse lake impacts.

Section 6. That the Water Resources Authority promulgate, at the earliest possible date, regulations effectuating the General Assembly's expressed policy directive.

Section 7. That copies of this resolution be forwarded to the Governor, the Commerce Cabinet, the Corps of Engineers, the Water Resources Authority, and the Natural Resources and Environmental Protection Cabinet.

The Committee on Business Organizations and Professions reported **HB 378** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 378, AN ACT relating to licensing of public dental laboratories.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 313A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Board" shall mean the Kentucky board of public dental laboratories.

(1) "Denture" means any removable full or partial upper or lower prosthetic dental appliance to be worn in the human oral cavity.

(3) "Denturist" means a person licensed under this Act to operate a public dental laboratory.

(4) "Operation of a public dental laboratory" means:

(a) Constructing, repairing, relining, reproducing, rebasing, adjusting, duplicating, supplying, altering, furnishing, or fitting in the human oral cavity any full or partial removable denture, and any service which is performed under paragraph (b) of this subsection;

(b) The taking of impressions, bite registrations, tryins, and insertions of or in any part of the human oral cavity for any of the purposes listed in paragraph (a) of this subsection; and

(c) Notwithstanding the term "practice of dentistry" found in KRS Chapter 313, the "operation of a public dental laboratory" does not constitute the practice of dentistry, and a person licensed or otherwise authorized to operate a public dental laboratory under the terms of this chapter shall not be subject to the jurisdiction of the Kentucky board of dentistry so long as that person stays within the scope of practice as defined in this subsection.

(5) "License" means a license issued by the Kentucky board of public dental laboratories, pursuant to this statute.

(6) "Temporary license" means a license issued by the board to a person who has completed his course of studies as defined by Section (6) of this Act and works under the supervision of a licensed denturist to acquire his two (2) years experience needed for full licensure.

SECTION 2. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

This chapter does not apply to:

(1) A person licensed to practice dentistry in this Commonwealth;

(2) Any person licensed to practice as a dental hygienist in this Commonwealth;

(3) Any dental assistant under the supervision of a licensed dentist of this Commonwealth;

(4) A student engaged in clinical studies at any dental school or in any public dental laboratory courses in this Commonwealth;

(5) Dentists and dental technicians of the armed forces of the United States and dental technicians of the United States Public Health Service and or the Veterans Administration while engaged in the regular discharge of their duties under the jurisdiction of their respective departments;

(6) Dental laboratory technicians and dental laboratories and commercial dental laboratories as are licensed under KRS 313.510 to 313.540; or

(7) Any person who conducts courses, seminars, workshops, clinics or demonstrations for educational purposes in areas defined in Section (1) of this Act. Such activities also shall not be construed as practice of dentistry as defined by KRS Chapter 313.

SECTION 3. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky board of public dental laboratories which shall consist of six (6) members appointed by the governor, within thirty (30) days of the effective date of this Act. Terms of office shall be for four (4) years, except initial appointments shall be made two (2) for four (4) years, two (2) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. The governor shall designate the length of the respective terms of the initial appointees.

(2) One (1) member shall represent the public at large. This member shall not be connected in any way with the medical or dental professions. Five (5) members shall be denturists operating a public dental laboratory. Each member of the board shall be a United States citizen, and a resident of Kentucky.

(3) Each member shall serve for the term of his appointment and until his successor has been appointed and qualified. No member shall serve more than one (1) consecutive term. In the event of a vacancy on the board, the governor shall appoint a successor. The governor may remove a member only for cause.

(4) The initial denturist members shall be appointed from a list of two (2) nominees for each appointment submitted by the Kentucky public dental laboratory association. Thereafter, any licensed denturist shall be eligible for board membership.

SECTION 4. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

The powers and duties of the Kentucky board of public dental laboratories are as follows:

(1) To authorize purchases and disbursements and to hire personnel necessary to carry out the provisions of this chapter;

(2) To organize, prepare, supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for licensing as denturists and to promulgate reasonable regulations as provided for by law which are necessary and proper to the execution of its duties herein;

(3) To issue and renew licenses to those who satisfactorily meet the licensure standards of this Act;

(4) To issue temporary licenses;

(5) To suspend or revoke licenses pursuant to this chapter or to issue decrees of censure pursuant to this chapter, and to reinstate licenses;

(6) To appoint representatives to conduct or supervise the examination of applicants for licensing;

(7) To conduct the reasonable periodic inspection of facilities of public dental laboratories;

(8) To initiate and maintain educational programs which shall apply to both new applicants for licensure and practitioners already licensed to operate a public dental laboratory;

(9) To administer oaths and to require the attendance of witnesses, the production of books, records and papers pertinent to any matters before the board by the issuance of process which shall be made and returned in the same manner as in civil actions and for the disobedience of which the board shall resort to a court of competent jurisdiction to invoke the same rights as are provided in the event of disobedience to a subpoena or subpoena duces tecum; and

(10) Members of the board shall be personally immune from liability with respect to all acts done and actions taken in good faith and within the scope of their authority.

SECTION 5. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) The board shall be assigned to the division of occupations and professions in the finance and administration cabinet and the division shall provide meeting space and such other administrative services as the board may require. The board shall compensate the division of occupations and professions for services rendered, except that such compensation shall not exceed the amount of revenue the board has received through license fees.

(2) Within thirty (30) days after its appointment by the governor, the board shall meet in the city of Frankfort. Thereafter, the board shall meet at least once a year at times and places to be designated by the board and upon such notice as the board may prescribe. At its first meeting, the board shall elect a chairman, vice-chairman, and a secretary-treasurer, each to serve in his respective capacity for one (1) year, and thereafter said officers shall be elected annually. Four (4) members of the board shall constitute a quorum for transaction of all business.

(3) The board shall keep a record of all of its proceedings and transactions and shall annually make a report to the governor showing receipts and disbursements and a summary of all business transactions during

the year.

(4) Fees, charges and other monies collected by the board shall be paid into the state treasury and credited to a trust and agency fund to be used to pay expenses in administering this chapter. All monies shall be received, disbursed, and accounted for by the secretary-treasurer, who shall be bonded at the expense of the board. All monies not expended by the board to pay expenses in administering this chapter shall be returned to the state treasury at the end of each fiscal year.

(5) Each member of the board shall be paid a reasonable sum not to exceed twenty-five dollars ($25.00) per day, for each day of service on the board and shall be reimbursed all reasonable and necessary expenses incurred in the execution of his duties.

SECTION 6. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) An application for each examination and license as a denturist shall be filed with the board at least thirty (30) days prior to an examination and shall be accompanied by a non-refundable examination fee of one hundred fifty dollars ($150).

(2) Any person shall be eligible to take the examination for the purpose of becoming licensed as a denturist if he has submitted satisfactory proof of one (1) of the following requirements to the board:

(a) Proof that the applicant has completed an educational course approved by the board of not less than two (2) years duration nor more than four (4) years duration, which curriculum shall include the subjects of head and oral anatomy, pathology, physiology, clinical denture technology and dental laboratory technology, plus two (2) years of practical experience; or

(b) Proof that prior to the effective date of this Act the applicant has had at least six (6) years experience in a military dental services office, in a dentist's office, or as a dental laboratory technician, and proof that the applicant has completed a course of at least six (6) months duration approved by the board, which curriculum shall include the subjects of head and oral anatomy, pathology, physiology, clinical denture technology, and dental laboratory technology.

(3) In addition to meeting at least one (1) on the requirements set out in subsection (2) of this section, every applicant for licensure to operate a public dental laboratory shall submit to the board satisfactory proof that he is:

(a) A resident of the Commonwealth of Kentucky;
(b) A person of good moral character;
(c) Eighteen (18) years of age or older; and
(d) Free of contagious or infectious disease.

SECTION 7. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) Examinations of applicants for license under this Act shall be held at least once a year at such times and places as the board may determine. Timely and appropriate notice shall be given to each applicant. The first exam shall be given on or before June 30, 1985.

(2) The examination shall be of such a character as to determine the qualifications, fitness and ability of the applicant to operate a public dental laboratory. It may be written, visual, oral, or in the form of a demonstration of skills, or a combination of any such types.

(3) The board shall include in its examination:

(a) Demonstration of skills in repairing, relining, rebasing, construction and fabrication of dentures; and taking of impressions, bite registration, tryins, and insertions for the purpose of constructing, forming, altering or repairing dentures; and

(b) A written examination including testing the knowledge of each applicant in the areas of head and oral anatomy, pathology, clinical denture technology and dental laboratory technology; and

(c) Other matters that the board in its sound discretion shall require.

SECTION 8. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) The license issued by the board shall expire each year on June 30, following the date of issue, and shall be renewed each year upon the practitioner paying a fee of one hundred fifty dollars ($150) plus presenting satisfactory evidence to the board:

(a) That he has complied with whatever continuing education requirements that the board may have established; and

(b) That he has been actively operating a public dental laboratory during the year.

(2) A thirty (30) day grace period shall be allowed after June 30, during which the license may be renewed on payment of an additional twenty-five dollars ($25.00).

(3) Failure to pay the annual registration fee by the end of the thirty (30) day grace period shall cause a forfeiture of license. A license may be reinstated in the year in which it is forfeited by submitting a written application with payment of the annual registration fee plus fifty dollars ($50.00) delinquent registration fee. The board may, by regulation, control the re-entry of practitioners who have been inactive and unlicensed for more than one (1) year, and may require re-examination of such practitioners if deemed necessary in the

interest of public health and safety.

(4) A denturist maintaining more than one (1) place of practice shall obtain from the board a duplicate certificate for each such office. A twenty-five dollar ($25.00) fee shall be charged for each such duplicate certificate. Such denturist shall notify the board within ten (10) days of opening the additional place or places of practice. A penalty of ten dollars ($10) shall be levied for failure to give such notice to the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) The board shall receive complaints concerning a practitioner's business or professional practices. Each complaint received shall be logged, recording the practitioner's name, name of the complaining party, date of the complaint, and a brief statement of the complaint, and its ultimate disposition.

(2) After investigation for the purpose of determining probable cause, the chairman may dismiss any complaint when it appears that probable cause of a violation cannot be established. The complaining party shall be notified promptly of the dismissal and may appeal the dismissal to the full board.

(3) Complaints which are not dismissed may be referred by the board to an investigator to seek adjustment between the complaining party and the practitioner. The adjustment may include any penalty enumerated in this Act or any other adjustment which is accepted by the board, complaining party, and the practitioner.

(4) Complaints which are not dismissed or adjusted pursuant to subsections (2) and (3) of this section, shall be referred to a hearing officer. A member or staff person shall present evidence of violations to the hearing officer. The hearing officer shall make findings of fact, conclusions of law, and recommendations after a hearing. The hearing officer's findings of fact, conclusions of law, and recommendations shall be forwarded to the board.

(5) The board shall receive and review the hearing officer's findings of fact. Any member who has participated in the investigation or presentation of a case to a hearing officer must disqualify himself from participation in the board's decision in the same case. The board, after a due review and hearing if deemed advisable, shall accept or reject the hearing officer's findings of fact. The board shall issue an order of its findings and its decision as to penalty, if any, and the order shall be delivered to all concerned parties.

(6) Decisions of the board may be appealed within thirty (30) days to any court of competent jurisdiction, as determined by the rules of civil procedure. A license shall remain in effect during the pendency of an appeal unless suspended under other provisions of this Act.

(7) The board shall have the power to subpoena witnesses and evidence in any part of this state to compel testimony in disciplinary proceedings.

SECTION 10. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) Practitioners subject to this chapter shall conduct their practices in accordance with the standards established by this Act and by the Kentucky board of public dental laboratories, and shall be subject to the disciplinary sanctions contained in this Act, if, after a hearing, the board finds that:

(a) Practitioner has employed or knowingly co-operated in fraud or material deception in order to obtain a license to practice the profession, or has engaged in fraud or material deception in the course of professional services or activities, or has advertised services in a false or misleading manner; or

(b) A practitioner has been convicted of a felony or other crime which affects the practitioner's ability to continue to practice competently and safely; or

(c) A practitioner has engaged in unacceptable patient care due to his deliberate or negligent acts or act or failure to act, regardless of whether actual injury to the patient is established; or

(d) A practitioner who keeps his office or equipment in unsanitary condition; or

(e) A practitioner has knowingly violated any provision of this Act or board regulations promulgated under the provisions of this Act; or

(f) A practitioner has continued to practice although he has become unfit to practice his profession due to:

1. Professional incompetence;

2. Failure to keep abreast of current professional theory or practice;

3. Physical or mental disability including severe dependency on alcohol or other drugs, that impairs his capacity to practice safely; or

(g) A practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of denture services to patients.

(2) The board may order a practitioner to submit to a reasonable physical or mental examination if his physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

(3) Failure to comply with a board order to submit to a physical or mental examination shall render a practitioner liable to the summary revocation procedures described in this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) The board may impose any of the following sanctions, singly or in combination, when it finds

that a practitioner is guilty of any offense described in this Act:

(a) Issue a letter of reprimand;

(b) Censure a practitioner;

(c) Suspend a practitioner's license;

(d) Permanently revoke a practitioner's license to practice;

(e) Place a practitioner on probationary status and require the practitioner to:

1. Report regularly to the board upon the matters which are the basis of probation;

2. Limit practice to those areas prescribed by the board;

3. Continue or renew professional education until satisfactory degree of skill has been attained in those areas which are the basis of the probation.

(2) The board may withdraw the probation if it finds that the deficiencies which required disciplinary action have been remedied.

(3) The board may summarily suspend a practitioner's license in advance of a final adjudication or during the appeals process if the board finds a practitioner represents a clear and immediate danger to the public health and safety if he is allowed to continue to practice. A practitioner whose license is suspended under this section shall be entitled to a hearing before the board no later than twenty (20) days after the effective date of the suspension. The practitioner may subsequently appeal the suspension to any court of competent jurisdiction as determined by the rules of civil procedure.

(4) The board may reinstate a license which has been suspended under this Act if, after a hearing, the board is satisfied that the applicant is able to practice the profession with reasonable skill and safety to patients. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this Act.

(5) The board shall seek to achieve consistency in the application of the foregoing sanctions, and significant departure from prior decisions involving similar conduct shall be explained in the board's findings or orders.

SECTION 12. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

All licensees shall be allowed to advertise the price of dentures, relinings and repairs, except that no advertisement may be false, misleading, deceptive or unfair.

SECTION 13. NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

(1) The board or any commonwealth's or county attorney or the attorney general shall have the power to bring suit in its own name in any circuit court for injunctive relief for violations of this chapter. An injunction shall issue to enjoin the operation of a public dental laboratory upon sufficient evidence that on a specified date in the county named the defendant engaged in the operating of a public dental laboratory without a license and without being exempt from the provisions of this chapter. No showing of damage or injury as the result shall be required.

(2) An injunction shall issue to enjoin any person not licensed pursuant to this chapter from using the designation denturist in the practice of dental prosthetics.

SECTION 14. A NEW SECTION OF KRS CHAPTER 313A IS CREATED TO READ AS FOLLOWS:

Any person who practices or purports to practice, or who leads or attempts to lead others to believe that he is authorized to operate a public dental laboratory in this state when, in fact, he is not, shall be in violation of this chapter and shall be guilty of a misdemeanor. A person may be fined up to one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both, for each such violation. Each day a person violates the terms of this Act shall constitute a separate offense.

The Committee on Natural resources and Environment reported **HB 300, HJR 25**, and **HB 216** with Committee Amendment attached thereto, with the express of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 300, AN ACT relating to notification of hazardous materials shipments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

When the governor or his designee is prenotified, as required by federal law or regulation, of the shipment of radioactive materials or other hazardous materials into or through the state, the governor, or his designee receiving the prenotification, shall within twenty-four (24) hours contact the Kentucky state police *and the sheriff of the counties through which the materials will be transported by telephone or by a written communication alerting them as to the schedule and content of the pending shipment. The governor or his designee shall notify additional emergency response personnel or other appropriate state agencies, consistent with federal regulations, as necessary, to properly monitor the movement of the shipment into or through the state and to assure a timely response to any emergency.*

HJR 25, A JOINT RESOLUTION authorizing and directing the Governor to establish and to appoint a commission to study the feasibility of an authority to develop offshore coal loading facilities to facilitate the exporting of Kentucky coal.

WHEREAS, the coal industry is a major contributor to the state's economy; and

WHEREAS, the development of new and expanded foreign markets for coal is important to the economy of Kentucky; and

WHEREAS, the development of the coal export trade depends upon the availability of port loading facilities capable of accommodating modern super colliers; and

WHEREAS, many ports accessible to Kentucky coal are not capable of accommodating modern super colliers; and

WHEREAS, the development of offshore coal loading facilities at such ports would accommodate the loading of super colliers;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That a commission to study the feasibility of establishing an authority to develop offshore coal loading facilities is hereby created and established. The commission shall be assigned to the Governor's office for administrative purposes, and it shall be composed of nine members. Each member shall be appointed by the Governor for a term not to exceed two years; provided that no appointment shall extend beyond August 31, 1986. If a vacancy occurs, prior to August 31, 1986, then the Governor shall appoint a successor to fill the unexpired term of the vacated position in the same manner as the original appointment.

Section 2. That the commission shall establish its own bylaws, and shall elect from among its membership a chairperson and vice-chairperson. If a vacancy occurs in either office, then the remaining membership shall fill said office in accordance with the commission's bylaws. The commission shall meet at least quarterly, and a quorum of a simple majority shall be required to transact any business, except that a quorum shall not be required to adjourn a meeting. Members shall be paid their necessary and proper expenses for attending commission meetings and the performance of their official duties. The finance and administration cabinet shall make funds available to the commission for this purpose.

Section 3. That the commission shall study and advise and make recommendations to the Governor and the General Assembly on all matters relating to the development of an offshore coal loading facilities authority. In the performance of these duties and responsibilities, the commission may:

(1) Conduct hearings and inspect facilities and visit sites pertinent to the commission's work;

(2) Consult with any public and private group or person that may provide information relative to the commission's work;

(3) Apply for, receive and expend funds from any source, provided such funds are used for the work of the commission; and

(4) Engage, if necessary, the services of professional consultants or others, to assist the commission in the conduct of its duties and responsibilities, provided that no personal services agreement shall extend beyond June 30, 1986, and provided that sufficient funds are provided to the commission for such purpose.

Section 4. That the secretary of the commerce cabinet and the secretary of the energy and agriculture cabinet shall cooperate with the commission and shall make available staff, materials, supplies and other services needed by the commission in the conduct of its duties and responsibilities.

Section 5. That the commission shall prepare a final study on the feasibility of creating an authority to develop offshore coal loading facilities, and this report shall be submitted to the Governor and General Assembly on or before August 31, 1986.

HB 216, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.175 is amended to read as follows:

(1) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, or lessee of each mine shall procure from the department a license to operate such a mine, and such license shall not be transferable. Any owner, operator, or lessee who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun.

(2) The license shall be in such printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(3) Requests for such license shall be made to the department and such requests shall be accompanied by a U.S. postal money order or cashier's check drawn in favor of the state treasurer in a reasonable amount established by regulations promulgated by the commissioner of a minimum of one hundred dollars ($100) and a maximum of one thousand dollars ($1,000). When the annual report of the operator and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of labor that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of labor, or upon receipt of notice from the commissioner of revenue that the licensee is a "delinquent taxpayer", as defined in KRS Chapter 131, the department shall forthwith revoke any license hereunder issued. Revocation of said license shall be an administrative function of the department. Appeal of said administrative function shall lie in the Fayette Circuit Court.

(4) The mine inspector shall have the authority to stop production at the mine of any operator who fails to procure a license or fails to furnish a certification of compensation coverage as required under this section.

(5) The department shall be authorized to seek injunctive relief for any violation of this section.

(6) The application for a license shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the bureau of vehicle regulation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be re-issued until a written tax clearance has been received from the commissioner of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body.

The Committee Amendment No. 1 to **HB 216** is as follows:

Amend printed copy of **HB 216** on page 3, line 25, by adding the following: "*This subsection applies only to those cemeteries with governing bodies.*"

Motions, Petitions, and Communications (Continued)

Representative Richards moved that **HB 502** be reassigned to the Committee on State Government. Agreed.

Representative Lundergan moved that he be recorded as voting "yea" on **HB 311**. Agreed.

Representative Williams filed the following Floor Amendment No. 2 to **HB 345**:

Amend printed copy of **HB 345** on page 1, line 13, following the word "*recording*" to add "*or prior to the use of the recording device the person making the recording shall notify the person being recorded of the fact that the conversation following the notice will be recorded and obtain the consent of all parties to the conversation*";

and on page 1, line 16, to delete "*Prior to the use of the recording device the*";

and on page 1, lines 17, 18, and 19, to delete the same;

and on page 1, line 20, to delete "*parties to the conversation.*";

and on page 1, line 21, to delete "by" and to insert in lieu thereof "to" and following "*recording*" add "*by the agency*";

and on page 2, line 2, following the word "*department*" to add the following: "*or to the recording by a detention facility of incoming calls to, or outgoing calls by, persons confined in the detention facility*";

and on page 2, below line 2, to add:

"*(3) Subsection (2) shall not apply to the recording of telephone conversation by law enforcement agencies when the law enforcement agency has the consent of at least one party thereto. In such cases the requirements of prior consent of all parties and audible tones shall not apply.*"

Representative Van Horn moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

HR 45, A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorable meteorological prognostication.

WHEREAS, February 2 is recognized throughout North America as groundhog day; and

WHEREAS, this humble animal has, since time immemorial, prognosticated climatic changes for mankind; and

WHEREAS, nowhere in the annals of recorded history have such prognostications been proven inaccurate, erroneous or false; and

WHEREAS, the minds and hearts of men eagerly await the result of this annual shadow boxing, and never more than this year would all so eagerly awaiting hope for his favorite prediction;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the House adjourn this day, Thursday, February 2, 1984, in honor of the humble woodchuck with the hope for his favorable prediction of an early spring.

HR 45 was adopted by voice vote.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, February 3, 1984.

On the roll call the vote was yeas 66-Arnold, Barrows, Bennett, Blevins, Bronger, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Craddock, Crupper, Curd, Donnermeyer, Dunn, Farrow, Ford, Foster, Fryman, Gedling, Hancock, Handy, Harper, Head, Hines, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Williams, Yates. Nays 3-Holloway, Maggard, Perkins.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 3, 1984

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Andrew Newcomer, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Patrick and Overstreet.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 2, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 4, SB 10, SB 41**, and **SB 92.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:
Banking and Insurance: **HB 528.**

Education: **HB 523, HB 524, HB 526, HB 529, HB 530.**

Natural Resources and Environment: **HB 522.**

State Government: **HB 525, HJR 46, HB 527.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 446, HB 447.**

Labor and Industry: **HB 448.**

Report of Committees

The Committee on Rules reported **HB 47, HB 106, HB 108, HB 110, HB 132, HB 322, HB 351, HB 358, HB 369, HB 370, HB 387, HB 388, HB 421, HB 177, HB 215**, and **HJR 3** have been posted for passage in Orders of the Day, February 6, 1984.

The Committee on Rules reported **HB 153** has been recommitted to the Committee on Education and **HB 226** has been recommitted to the Committee on Health and Welfare.

Calendar

HB 394, HB 127, HB 309, HB 317, HB 318, HB 336, HB 329, HB 196, HB 231, HB 433, SB 57, HB 265, HB 216, HB 378, HB 300, HJR 25, and **HJR 4** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 23, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 23.** Agreed.

Representative Long moved that **HB 23,** as amended, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Yates. Nays 5-Bennett, Dawahare, Gray, Pearman, Van Horn.

HB 23, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 23,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 24, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 24.** Agreed.

Representative Long moved that **HB 24,** as amended, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Worthington, Yates. Nays 3-Bennett, Dawahare, Van Horn.

HB 24, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 24,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 43, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved the adoption of the Committee Amendment No. 1 to **HB 43.** Agreed.

Representative Maggard moved that **HB 43,** as amended, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nay 1-Rattliff.

HB 43, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 43**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 214, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Substitute to **HB 214**. Agreed.

Representative Mann moved that **HB 214**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-List, Rapier.

HB 214, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 214**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

The Speaker announced a meeting of the Committee on Rules, on adjournment, State Reception Room.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 531, by Representatives Bendl, Long: AN ACT relating to the regulation of health facilities and health services.

HB 532, by Representative Caldwell: AN ACT relating to traffic regulations.

HB 533, by Representative Stumbo: AN ACT relating to illegal mining.

HB 534, by Representative Stumbo: AN ACT relating to mining.

HB 535, by Representative Heleringer: AN ACT relating to determination of death.

HB 536, by Representatives Moberly, Barrows, T. Jones, Hancock, P. Richardson, Kenton, and List: AN ACT relating to navigable waterways.

HB 537, by Representatives Gray, Hancock and Bruce: AN ACT relating to municipal utilities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 75**, **HB 92**.

State Government: **HB 479**.

Health and Welfare: **HB 154**, **HB 486**, **HB 319**, **HB 203**.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members have filed requests to have their names added as co-sponsors to Bills and Resolutions: Representative Handy, **HB 486**; Representative Lile, **HB 486**; Representative Priddy, **HB 471**; Representative Reinhardt, **HB 24**, **HB 57**, **HB 214**, **HB 288**, **HB 433**, **HB 493**; Representative Riner, **HB 477**; Representative Robinson, **HB 311**; Representative Seum, **HB 32**, **HB 99**, **HB 158**, **HB 214**, **HB 215**, **HB 433**; Representative Williams, **HR 45**.

Motions, Petitions, and Communications (continued)

The following Floor Amendment No. 2 to **HB 268** was filed by Representative Donnermeyer:

Amend printed copy of **HB 268** on page 1, line 19, after "oscillating" delete "red" and insert in lieu thereof the word "blue."

The following meetings were announced:

Education Budget Review: 1:00 p.m., Monday, Room 104.

Business Organizations and Professions: Public hearing, Thursday, 10:00 a.m.

Energy: Thursday, 8:00 a.m.

Adjournment

Representative LeMaster moved that the House adjourn until 4:00 p.m., Monday, February 6, 1984.

On the roll call the vote was yeas 77-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Yates. Nays 6-Guenthner, Handy, Holloway, Maggard, Moore, Perkins.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 6, 1984

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Pastor Terry Atherton, House of Christian Fellowship, Louisville, kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen, Gray and Layman.

Representative Brinkley moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 3, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HR 47, by Representative Foster: A RESOLUTION commending and honoring the 1983 Russellville High School football team.

HR 48, by Representative Burnette: A RESOLUTION urging Congress to increase the tariff and to impose a quota on imported raw tobacco.

HB 538, by Representative Kidd: AN ACT relating to housing authorities.

HB 539, by Representative Richards: AN ACT relating to the licensing of motor vehicles.

HB 540, by Representative Richards: AN ACT relating to the licensing of motor vehicles.

HB 541, by Representative Richards: AN ACT relating to the possession of police radios.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Energy: **HB 537.**

Health and Welfare: **HB 531.**

Judiciary-Civil: **HB 535, SB 4, SB 92.**

Natural Resources and Environment: **HB 533, HB 534, HB 536, SB 41.**

Transportation: **HB 532, SB 10.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 499, HB 508.**

Report of Committees

The Committee on Rules reported **HB 231**, **HB 265**, **HB 300**, **HJR 4**, **HB 41**, **HB 420**, and **HJR 9** have been posted for passage in Orders of the Day, February 7, 1984.

The Committee on Rules reported the following Bills and Resolutions have been recommitted:

HJR 25 and **HB 107** to the Committee on Appropriations and Revenue.

HB 210 to the Committee on Judiciary-Civil.

HB 345 to the Committee on State Government.

Senate Message

Announcing passage of **SB 2**, **SB 46**, **SB 65**, **SB 108**, **SB 120**, **SB 152**, and **HB 158**.

Orders of the Day

HB 132, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Committee Amendment No. 1 to **HB 132**. Agreed.

Representative Kidd moved that **HB 132**, as amended, be passed.

On the roll call the vote was yeas 83-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Foster, Freibert, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 0/

HB 132, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 132**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 32, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Amendment No. 1 to **HB 32**. Agreed.

Representative Stumbo moved that **HB 32**, as amended, be passed.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Handy, Harper, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 10-Burnette, Clapp, Hancock, Head, Holbrook, List, McNutt, Patrick, Thomason, White.

HB 32, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 32**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 358 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holloway moved that **HB 358** be passed.

On the roll call the vote was yeas 88-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, Williams, Worthington. Nays 3-Petty, Priddy, White.

HB 358 was passed and the title agreed to.

Representative Holloway moved that the vote by which **HB 358** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 47 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that **HB 47** be passed.

On the roll call the vote was yeas 91-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Yates. Nays 0.

HB 47 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 47** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the rules be suspended for the introduction of and action upon a Resolution. Agreed.

HR 52, by Representatives Overstreet and Brinkley: A RESOLUTION adjourning the House in Honor of country music celebrity Steve Wariner.

Representative Brinkley moved the adoption of the following **HR 52**:

HR 52, A RESOLUTION adjourning the House in honor of country music celebrity Steve Wariner.

WHEREAS, Steve Wariner, a native of Russell County, Kentucky, began his career in country music at the age of sixteen; and

WHEREAS, as a senior in high school, Steve Wariner toured with that great lady of country music, Ms. Dottie West, playing the bass guitar for her band; and

WHEREAS, Steve Wariner also toured with the famous Bob Luman band; and

WHEREAS, country music giant Chet Atkins recognized Steve's musical talents and selected Steve to be his accompanist during a world-wide tour; and

WHEREAS, since 1978, Steve Wariner has been a solo recording artist for R.C.A. records; and

WHEREAS, Steve Wariner's last ten recordings have been "Top Ten" hits; and

WHEREAS, Steve Wariner's long list of hits include "Lonely Women Make Good Lovers", "Kansas City Lights", "Midnight Fire", "Your Memory", "Don't Plan on Sleeping Tonight", and "All Roads Lead to You", which was number one across the nation; and

WHEREAS, Steve Wariner has appeared on national television with Dick Clark and the television show Hee Haw;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House praises country music celebrity Steve Wariner for his many achievements in the recording industry.

Section 2. That this honorable body hails Steve Wariner as an outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 3. That when the House does adjourn this day, Monday, February 6, 1984, it does so in honor of Steve Wariner.

Section 4. That the Clerk of the House be directed to transmit a copy of this resolution to Steve Wariner.

HR 52 was adopted by voice vote.

HB 369 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved that **HB 369** be passed.

On the roll call the vote was yeas 93-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Moore.

HB 369 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 369** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 370, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 370** be passed.

On the roll call the vote was yeas 83-Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark. P. Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Lefevers, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 6-Barrows, Bendl, Clarke, Cowan, Freibert, Kenton.

HB 370 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 370** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 387 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 387** be passed.

On the roll call the vote was yeas 92-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Perkins, Richards.

HB 387 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 387** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 158** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-4:47 p.m.)

HB 158 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 388 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 388** be passed.

On the roll call the vote was yeas 90-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Deskins.

HB 388 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 388** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 421 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that **HB 421** be passed.

On the roll call the vote was yeas 92-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 1-T. Jones.

HB 421 was passed and the title agreed to.

Representative R. Jones moved that the vote by which **HB 421** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 177, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Committee Substitute to **HB 177**. Agreed.

Representative Blevins moved that **HB 177**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 62-Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Foster, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kidd, LeMaster, Little, Lundergan, Maggard, Mann, McElroy, McNutt, Meyer, Moberly, Nett, O'Brien, Pearman, Perkins, Petty, Priddy, Reinhardt, Richards, B. Richardson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Williams, Yates. Nays 14-Bruce, Farrow, Freibert, Johnson, Lile, Long, McBee, Morris, Noland, Rapier, Rattliff, Van Horn, White, Worthington.

HB 177 by way of Committee Substitute, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 177**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 215, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Substitute to **HB 215**. Agreed.

Representative Mann moved that **HB 215**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 93-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 215, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 215**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HJR 3 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members

elected.

Representative F. Smith moved the adoption of **HJR 3**.

On the roll call the vote was yeas 83-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Handy, Harper, Head, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Guenthner, Hancock, Patrick.

HJR 3 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HJR 3** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Cline, **HB 520**; Representative Foster, **HB 433**; Representative T. Jones, **HB 215**; Representative Nett, **HB 309, HB 318**; Representative B. Smith, **HB 388**; Representative Thomas, **HB 34, HB 43, HB 352, HB 345, HB 334, HB 33, HB 486, HB 479, HB 515, HB 418.**

Representative Barrows requested that his name be withdrawn as a co-sponsor of **HB 477.**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 542, by Representative Deskins: AN ACT relating to mining.

HB 543, by Representative Deskins: AN ACT relating to mining.

HB 544, by Representative Deskins: AN ACT relating to mining.

HB 545, by Representatives Morris, Bruce: AN ACT relating to public safety telecommunicators.

HB 546, by Representative Johnson: AN ACT relating to nonelective peace officers.

HB 547, by Representatives Moberly, List: AN ACT relating to cause of action in nuisance.

HB 548, by Representative Mann: AN ACT relating to teachers' tenure.

HB 549, by Representative Van Horn: AN ACT relating to licensing of barbers.

HB 550, by Representative Robinson: AN ACT relating to crimes and punishments.

HB 551, by Representative Thomason: AN ACT relating to horse racing dates and declaring an emergency.

HB 552, by Representative Richards: AN ACT relating to disposal of surplus or excess property.

HB 553, by Representative LeMaster: AN ACT relating to the Kentucky retirement systems, as referenced in KRS 61.645.

HB 554, by Representatives Overstreet, Deskins: AN ACT relating to teachers' retirement and declaring an emergency.

HB 555, by Representative Cline: AN ACT relating to city utility commissions.

HB 556, by Representatives Williams, Bennett, Van Horn, and Dunn: AN ACT relating to crimes and punishments.

HB 557, by Representatives Donnermeyer, McBee: AN ACT relating to commerce.

HB 558, by Representative Hines: AN ACT relating to small or minority business purchasing.

HR 49, by Representatives Heleringer, Turner, and Freibert: A RESOLUTION adjourning the House of Representatives in honor of President Ronald Reagan.

HR 50, by Representative Morris: A RESOLUTION requesting the Legislative Research Commission through the Small Business Task Force to study and identify governmental activities that may be in competition with the private sector and to study the desirability of contracting out government services to the private sector.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 520, HB 523, HB 524, HB 529, HB 530, SB 19, SB 89.**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Education: **HB 77, HB 81, HB 252, HB 352.**

Motions, Petitions, and Communications

Representative Richards moved that he be recorded as changing his vote from "nay" to "yea" on **HB 387.** Rejected.

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 41,** by Representative P. Clark:

Amend printed copy of Committee Substitute to **HB 41,** on page 4, line 14, by deleting "*the*" and substituting in lieu thereof "*personal*"

and on line 15, by inserting after "*presumption*" the words "*by clear and convincing evidence*"

and also on line 15, by inserting after the period, "." the following: "*The burden of proof is upon the law enforcement agency to prove by clear and convincing evidence that real property is forfeitable under this paragraph.*"

Floor Amendment No. 1 to **HB 300,** by Representative Lundergan:

Amend printed copy of **HB 300,** on page 1, line 9, by inserting after the word "*sheriff*" the following language: "*or the chief executive officer of urban-county government*".

Floor Amendment No. 1 to **HB 377,** by Representative Dunn:

Amend printed copy of **HB 377,** on page 1, line 3, after "*(1)*" insert, "*Except as provided in subsections (2) and (3) of this Section,*"; and on page 1, after line 15, by inserting the following: "*(3) A city governing body, in the case of an incorporated city, or a county governing body, in the case of a census designated place, may by ordinance waive the prohibition established by subsection 1 of this section.*"

Floor Amendment No. 1 to **HB 378,** by Representative Burch:

Amend printed copy of **HB 378,** on page 13, after line 8 by adding the following new language:

"SECTION 10. A NEW SECTION OF KRS 313A IS CREATED TO READ AS FOLLOWS:

Any person receiving new dentures shall have an oral examination, by a licensed medical doctor or dentist; such examination must have taken place and certified by the medical doctor or dentist not more than sixty (60) days before the placement of the denture; a waiver of oral examination which must state that the said person understand that a denturist is not qualified to diagnose or treat oral disease."; and

on page 13, line 9, by changing "10" to "11" and renumbering all following sections accordingly.

Floor Amendment No. 1 to **SB 37,** by Representative O'Brien:

Amend printed copy of House Committee Amendment No. 1 to **SB 37,** on page 1, line 4, of the amendment by inserting after the word "*person*" the words "*, including an elected public official,*"; and

on page 2, last line, by underlining "18A.215".

Floor Amendment No. 2 to **SB 37,** by Representative Freibert:

Amend printed copy of **SB 37,** on page 8, after line 11, by inserting:

"Section 6. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance fees, licenses and miscellaneous charges as follows:

(1)	Annual statement:	
(a)	Filing each year	$ 100.00
(b)	Filing additional or supplemental statement in same year	100.00
(2)	For filing charter documents:	
(a)	Original charter document, bylaws and records of organization, or certified copies thereof, required to be filed	100.00
(b)	Amended charter documents, bylaws and records of organization, or certified copies thereof	50.00
(3)	Certificate of authority:	
(a)	Issuance of original certificate	500.00
(b)	Amending, to add a line	50.00
(c)	Renewal, each year	100.00
(4)	Organization of domestic mutual insurers: Filing application for solicitation permit and issuance of such permit	200.00
(5)	Self insurer:	
(a)	Application to become self-insurer under KRS 304.39	200.00
(b)	Annual review of status under KRS 304.39	100.00
(c)	Notification of self-insurance program under KRS 304.32 et seq	50.00
(6)	Agent's licenses, foreign and alien insurers:	
(a)	License for life insurer, whether or not health insurance is included, biennial	40.00
(b)	License for industrial life insurer, only, biennial	40.00
(c)	License for other insurance, each insurer represented, biennial	40.00
(d)	Limited license as travel insurance agent, biennial	40.00
(e)	Temporary license as property and casualty agent	20.00
(f)	Temporary license as life and health agent	20.00
(g)	Nonresident agent, biennial	50.00
(7)	Surplus lines broker, biennial	100.00
(8)	Solicitor's license, biennial	20.00
(9)	Adjuster's license, biennial	50.00
(10)	Consultant's license, biennial	50.00
(11)	Agent's licenses, fraternal benefit societies, biennial	40.00

(12)	Examination, for or in connection with licensing of agents, solicitors, adjusters, and consultants	50.00
(13)	Annual registration fee of unauthorized insurer	500.00
(14)	Advisory organizations:	
(a)	Application for license	500.00
(b)	Annual renewal	100.00
(15)	Rate and form filings:	
(a)	Rate level revision filing in a non-competitive market	100.00
(b)	Other rate and form filings	5.00
(16)	Premium finance company license issuance and annual renewal	100.00
(17)	Cost of administering KRS 304.32 per membership contract in force on December 31st of each year, *except the health insurance contract or contracts for state employes as authorized by KRS 18A.225*	.10
(18)	Miscellaneous services:	
(a)	Filing other documents, each	5.00
(b)	Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each	5.00
(c)	For copies of any document on file with the commissioner, per page	.50
(d)	Copy of annual statements, per page	1.00

The following meetings were announced:

Committee on Rules: State Reception Room, on adjournment.

Labor and Industry: Tuesday, 8:00 a.m., Room 104.

Education: Tuesday, 8:00 a.m., Room 109.

Counties and Special Districts: Regular time, Tuesday.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 7, 1984.

On the roll call the vote was yeas 67-Arnold, Bendl, Bennett, Blevins, Brinkley, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Hancock, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Lefevers, Lile, List, Long, Lundergan, McBee, McElroy, Meyer, Nett, Noe, Noland, O'Brien, Pearman, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 7-Guenthner, Handy, Holloway, Maggard, Moore, Perkins, Petty.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 7, 1984

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Gene Carter, Pikeville Church, Pikeville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Richards.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 6, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 16, SB 71, SB 132, SB 133, SB 145, SB 153, SB 154, SB 155, SB 159, SB 160, SB 161, HB 3, HB 255,** and **HB 73** with Senate Amendment.

Introduction of Bills and Resolutions

HB 559, by Representatives Moore, Burnette, Stumbo, Seum, Reinhardt, Heleringer, Bronger, Robinson, Harper, Fryman, Todd, and Lefevers: AN ACT relating to motor vehicle taxes.

HB 560, by Representative Moore: AN ACT relating to the administration oc county government.

HB 561, by Representative Clapp: AN ACT relating to electric utilities.

HB 562, by Representatives Dunn and Bronger: AN ACT relating to alcoholic beverage control.

HB 563, by Representative Mann: AN ACT relating to teachers' tenure.

HB 564, by Representative Mann: AN ACT relating to teacher certification.

HB 565, by Representatives Arnold, Lundergan, and Worthington: AN ACT relating to motor vehicle registration.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 2, SB 65.**

Business Organizations and Professions: **HB 549, HB 551, HB 557.**

Cities: **HB 538, SB 120.**

Counties and Special Districts: **HB 546, HB 552.**

Education: **HB 548, HB 554, SB 108.**

Energy: **HB 555.**

Judiciary-Civil:**HB 547.**

Judiciary-Criminal: **HB 541, HB 550, HB 556.**

Natural Resources and Environment: **HB 542, HB 543, HB 544, SB 152.**

State Government: **HB 545, HB 553, HB 558, HR 48, HR 50.**

Transportation: **HB 539, HB 540.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: **SB 110.**

Report of Committees

The Committee on Rules reported **HB 216, HB 317, SB 57, HB 256, HB 377,** and **HB 410** have been posted for passage in Orders of the Day, February 8, 1984.

The Committee on Rules reported **HB 378** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Counties and Special Districts reported **HB 14** with Committee Amendment attached thereto, **HB 400** with Committee Amendment attached thereto, **HB 446, SB 8,** and **SB 51** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 14, AN ACT relating to vehicles used by law enforcement agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) All motor vehicles used by Kentucky state police, sheriffs' departments, county police, urban-county police, and city police for ordinary patrol purposes shall be equipped with a screen or other protective device between the area where prisoners are transported and the driver of the vehicle, and the area in which the prisoner is enclosed shall be equipped so that the doors and windows cannot be opened from the inside of the vehicle.

(2) Subsection (1) shall not apply to vehicles used for investigative purposes nor to special purpose vehicles not normally used for the transportation of prisoners.

The Committee Amendment No. 1 to **HB 14** is as follows:

Amend printed copy of **HB 14** on line 6, after the word "*purposes*" by inserting the following: "*, which are conspicuously marked as law enforcement vehicles,"; and on line 15, by inserting after the period the following: "Section 2. This Act shall take effect on January 1, 1985."*

HB 400, AN ACT relating to bridges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.250 is amended to read as follows:

(1) Notwithstanding any other provision of law, no person and no city, county, or other political

subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the department of highways *or those constructed by cities or counties for roads*) across or along any stream, or in the floodway of any stream, unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the department and a permit issued. However, the department by regulation may exempt those dams, embankments or other obstructions which are not of such size or type as to require approval by the department in the interest of safety or retention of water supply.

(2) No person, city, county or other political subdivision of the state shall commence the filling of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for such work have been submitted to and approved by the department and a permit issued as required in subsection (1) above.

(3) Nothing in this section is intended to give the department any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch, or system established for agricultural purposes, or to require approval of the same except where such obstruction of the stream or floodway is determined by the department to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified. The Kentucky bureau of surface mining through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations.

The Committee Amendment No. 1 to **HB 400** is as follows:

Amend printed copy of **HB 400** on page 1, line 10, by inserting after the word "*those*" the following:

"*reconstructed*";

and on page 1, line 10, by deleting "*con-*";

and on page 1, line 11, by deleting "*structed.*"

HB 446, AN ACT relating to bonding of coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 72.010 is amended to read as follows:

Every coroner shall execute bond with sureties approved by the county judge/executive. The bond shall be recorded in the office of the county clerk. The fact that the constitutional oath has been taken and the bond executed and the names of the sureties on the bond, shall be entered upon the records of the court. *Premiums on the bond of the coroner may be paid from county funds when appropriated by the fiscal court.* No jailer, sheriff or sheriff's deputy, county judge/executive, clerk or attorney shall be surety for the coroner on his official bond. Every coroner shall have the authority to appoint deputy coroners. Deputy coroners shall execute a bond with sureties in accordance with the provisions of this section.

SB 8, AN ACT relating to county personnel and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county

employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the number of deputies and assistants, and the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office. (4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. *The fiscal court may, upon the written request of the officer, increase or decrease the number of permanent or temporary deputies and assistants authorized to the office at any time after the beginning of the term of the officer. The fiscal court shall fix the compensation of deputies and assistants hired during the term of the officer at the time of their employment, and their compensation may be reviewed and adjusted at the same time as that of other deputies and assistants.* On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 2. KRS 68.290 is amended to read as follows:

The fiscal court may transfer money from one (1) budget fund to another to provide for emergencies *or increases or decreases in county employment pursuant to KRS 64.530(4)*. The order of the fiscal court making the transfer shall show the nature of the emergency *or personnel increase or decrease* and the reason for making the transfer. The fiscal court shall not have any power to transfer money from any sinking fund or special fund raised for a specific purpose until the obligation or purpose for which the fund was raised has been satisfied.

Section 3. Whereas, in certain counties, deputy county clerks and deputy sheriffs have been hired after the beginning of the county clerks' or county sheriffs' terms of office and questions exist about the legal capacity of the counties to pay these deputies, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

SB 51, AN ACT relating to planning at the seat of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) A joint Frankfort, Franklin County, Commonwealth of Kentucky planning and coordinating committee is created. The committee shall jointly plan and coordinate all projects of state government which impact city and county government and are unique to the seat of state government, such as but not limited to:

(a) Payments in lieu of taxes;

(b) Construction of buildings, roads and bridges;
(c) The destruction of buildings or disposal of real property; and
(d) Substantial employment increases or decreases.

(2) The committee shall meet at least semi-annually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following ex-officio members: the mayor of the city of Frankfort, the county judge/executive of Franklin County, the secretary of the finance and administration cabinet or designee, the secretary of the transportation cabinet or designee, the secretary of the commerce cabinet or designee. The mayor and county judge/executive shall jointly appoint a citizen-at-large, who is a resident of Franklin County. The citizen-at-large member of the committee shall be appointed to a term of four (4) years.

(4) The mayor and county judge/executive shall serve as chairperson of the committee on alternating terms of one (1) year. The mayor shall serve the first term as chairperson beginning July 15, 1984.

(5) Members of the committee shall serve without compensation.

The Committee on Labor and Industry reported **HB 152** with Committee Amendments attached thereto, **HB 258, HB 273** with Committee Amendment attached thereto, **HB 335,** and **HB 466,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 152, AN ACT relating to workers' compensation insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All writers of workers' compensation insurance in Kentucky shall provide to their insureds a quarterly loss report detailing the following information:
(a) Name of claimant;
(b) Identification or social security number;
(c) Name of division and department;
(d) Date of injury;
(e) Amount reserved (medical, compensation);
(f) Amount paid to date (medical, compensation);
(g) Expenses (legal, other);
(h) Taxes paid;
(i) Cumulative loss information by division and department for the month, current year, and previous three (3) years; and
(j) Loss ratio.

(2) The quarterly loss report required by this section shall be received by the insured on or before the fifteenth day of the month following the end of the quarter.

(3) Any insurer who fails to comply with the requirements of this section without cause shown shall be fined one thousand dollars ($1000). The department of insurance and the department of labor shall hold a joint hearing, if any insurer violates the provisions of this section more than five (5) times, to determine whether such insurer may continue to do business in Kentucky. If it is determined that the insurer should not be allowed to continue to do business, the commissioner of the department of insurance shall revoke the certificate of authority of the insurer.

SECTION 2. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All commercial writers of workers' compensation insurance in Kentucky shall submit quarterly financial disclosures of the amount of workers' compensation premiums. All writers of workers' compensation insurance in Kentucky shall disclose to their insureds not later than thirty (30) days prior to the date of renewal the actual total reserved dollars for medical and compensation and the interest earned on those reserves.

(2) All commercial writers of workers' compensation insurance in Kentucky shall provide annual financial disclosures of the percentage of the annual workers' compensation premiums written in Kentucky which are invested in Kentucky and the nature of the investments.

(3) The quarterly financial disclosures of premiums and the annual financial disclosures of premiums invested in Kentucky as required by this section shall be submitted to the department of insurance, department of labor, department of revenue and commerce cabinet.

(4) The department of insurance and the department of labor shall hold a joint hearing, if any insurer violates the provisions of subsection (1) of this section more than five (5) times, to determine whether such insurer may continue to do business in Kentucky. If it is determined that the insurer should not be allowed to continue to do business, the commissioner of the department of insurance shall revoke the certificate of authority of the insurer.

The Committee Amendment No. 1 to **HB 152** is as follows:

Amend printed copy of **HB 152** on page 3, after line 14, by inserting the following new section:

SECTION 3. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every insurer writing workers' compensation insurance in this state who offers a discount to a purchaser of workers' compensation insurance and the purchaser accepts, shall inform the department of insurance and the department of labor of the availability of such discount.

The Committee Amendment No. 2 to **HB 152** is as follows:

Amend printed copy of **HB 152** on page 1, line 4, by inserting after the word "*their*" the following: "*individual.*"

HB 258, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.730 is amended to read as follows:

(1) Income benefits for disability shall be paid to the employe as follows:

(a) For total disability, sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during such disability.

(b) For permanent[~~,~~] partial *functional impairment* [~~disability~~], sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of *functional impairment* [~~disability~~] caused by the injury or occupational disease as determined by the "Guides to *the* Evaluation of Permanent Impairment," American Medical Association, 1977 edition, *for a period of four hundred and twenty-five (425) weeks, exclusive of the period of temporary total disability;* or by his percentage of disability as determined under KRS 342.620 (11), whichever is greater[~~, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of KRS Chapter 342 to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability~~].

(c) For permanent partial occupational disability, when it is determined that the provisions of KRS 342.620(11) are applicable, sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of occupational disability caused by the injury or occupational disease for the duration of disability.

(d) Any temporary total disability period within the maximum period for permanent, partial benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in paragraph (1)(a) of this section. Notwithstanding any section of this chapter to the contrary there shall be no minimum weekly income benefit for permanent partial benefits and medical benefits shall be paid for the duration of disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) When an employe, who has sustained disability compensable under this section, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the

expiration of the compensable period specified, the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support; or

(b) If there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

(c) If there is no such widow or widower but such a child or children, then to such child or children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

HB 273, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.310 is amended to read as follows:

If the board or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted or defended without reasonable ground, it may assess *upon any party or parties to the proceedings, all the expenses* [~~the whole cost~~] of the proceedings *which shall include but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses* [~~upon the party who has so brought, prosecuted or defended them~~].

The Committee Amendment No. 1 to **HB 273** is as follows:

Amend printed copy of **HB 273** on page 1, lines 6 and 7, by deleting the words "*upon any party or parties to the proceedings, all the expenses*";

and on page 1, lines 7 and 8, by deleting the brackets and strikethroughs;

and on page 1, lines 12 and 13, by deleting the brackets and strikethroughs.

HB 335, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter an owner or owners of a business, [~~including partners of a partnership owning a business,~~] whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employe if such owner *or* [~~,~~] owners[~~, or partners~~] elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of such owners [~~or partners~~] to provide coverage for their employe, if any, required under this chapter.

(2) When an owner *or* [~~,~~] owners [~~or partners~~] have elected to be included as employes such shall be accomplished by the issuance of an appropriate endorsement to a workmen's compensation insurance policy.

Section 2. KRS 342.640 is amended to read as follows:

The following shall constitute employes subject to the provisions of this chapter, except as exempted under KRS 342.650:

(1) Every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employes whether paid by the employer or employe, if employed with the knowledge, actual or constructive, of the employer.

(2) Every executive officer of a corporation *and every partner of a partnership.*

(3) Every person in the service of the state or of any political subdivision or agency thereof, or of any

county, city of any class, school district, drainage district, tax district, public or quasi-public corporation or other political entity, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties. Every person who is a member of a volunteer fire or police department shall be deemed for the purposes of this chapter, to be in the employment of the political subdivision of the state where the department is organized. Every person who is a regularly enrolled volunteer member or trainee of the civil defense corps of this state as established under KRS Chapter 39, shall be deemed for the purposes of this chapter, to be in the employment of this state. Every person who is a member of the Kentucky national guard, while said person is on active state service as defined in KRS 38.010(4) shall be deemed for the purposes of this chapter to be in the employment of this state.

(4) Every person performing service in the course of the trade, business, profession or occupation of an employer at the time of the injury.

(5) Subject to the provisions in subsection (4) of this section, every person regularly selling or distributing newspapers on the street or to customers at their homes or places of business. For the purposes of this chapter such a person shall be deemed an employe of an independent news agency for whom he is selling or distributing newspapers, or, in the absence of such independent agency, of each publisher whose newspapers he sells or distributes.

HB 466, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the board. *In an original claim,* no attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to twenty percent (20%) of the first twenty-five thousand dollars ($25,000), fifteen percent (15%) of the next ten thousand dollars ($10,000) and five percent (5%) of the remainder of the amount recovered as actuarily determined on past and future benefits according to the American Experience Table of Mortality and the Remarriage Tables of the Dutch Royal Insurance Institute. In no case shall the fee exceed six thousand five hundred dollars ($6,500). Provided, however, the board, in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The board may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316(2)(b), paragraph 5, shall result in an award of an attorney fee not exceeding seven hundred fifty dollars ($750).

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the board, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The entire attorney's fee in a lump sum shall be paid directly to the attorney of record, and the board in allowing or approving an attorney's fee, as provided in this section, shall order the payment of same directly to the attorney, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose.

(3) The general assembly declares that by the enactment of subsections (2)(b) and (7) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the board shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(4) The board shall approve any contract between attorney and client if the limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316(2)(b), paragraph 5, the attorney fee shall not exceed an amount equal to seven hundred fifty dollars ($750).

(b) In all other claims, the fee of the attorney shall not exceed a sum equal to twenty percent (20%) of the amount recovered, or five thousand dollars ($5,000), whichever is less.

(c) When an order or award is appealed to the Court of Appeals, the attorney fee shall not exceed twenty percent (20%) of the amount recovered, or six thousand dollars ($6,000), whichever is less.

(5) In a claim that has been reopened pursuant to the provisions of this chapter, attorney fees may be awarded by the board. In each reopened claim, no attorney fee exceeding six thousand five hundred dollars ($6,500) shall be allowed or approved by the board. In approving and calculating attorney fees for reopened claims, the board shall follow the procedure for approving and calculating attorney fees for original claims outlined in this section.

Orders of the Day

Speaker Pro Tempore Blandford assumed the Chair.

Representative LeMaster moved that the rules be suspended to allow Speaker Richardson to address the House. Agreed.

Speaker Richardson addressed the House.

The Speaker resumed the Chair.

HB 322, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Foster moved the adoption of the Committee Substitute to **HB 322.** Agreed.

Representative Foster moved that **HB 322,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 322, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 322,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 231 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 231** be passed.

On the roll call the vote was yeas 82-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, McBee, McElroy, Moberly, Moore, Morris, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 8-Brown, Clarke, Freibert, Heleringer, T. Jones, Nett, Noe, Williams.

HB 231 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 231** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 265, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Committee Amendment No. 1 to **HB 265.** Agreed.

Representative List moved that **HB 265,** as amended, be passed.

On the roll call the vote was yeas 85-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 11-Allen, Brown, Curd, Fryman, Little, Mann, Moore Noland, Patrick, Petty, Robinson.

HB 265, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 265,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 300, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved the adoption of the Floor Amendment No. 1 to **HB 300.** Agreed.

Representative Moberly moved that **HB 300,** as amended, be passed.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Worthington, Yates. Nays 4-Allen, Ellington, Ford, Turner.

HB 300, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 300,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 4, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of the Committee Substitute to **HJR 4.** Agreed.

Representative F. Smith moved that **HJR 4,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 84-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kidd, Lefevers, LeMaster, Lile, Little, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 11-Allen, Freibert, Guenthner, Holloway, R. Jones, Layman, List, Long, McElroy, Thomason, Todd.

HJR 4, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HJR 4,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 41, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 41**.

Representative P. Clark moved the adoption of the Committee Substitute to **HB 41**.

Representative Overstreet moved that **HB 41**, as amended, be laid on the Clerk's desk.

On the roll call the vote was, yeas 26-Arnold, Barrows, Caldwell, Crupper, Cyrus, Deskins, Endicott, Ford, Fryman, Holbrook, Layman, Lefevers, Long, Lundergan, Maggard, McBee, Moore, Noe, Noland, Overstreet, Rattliff, Reinhardt, Robinson, Thomas, Todd, Turner. Nays 57-Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, L. Clark, P. Clark, Clarke, Cowan, Curd, Donnermeyer, Dunn, Ellington, Farrow, Freibert, Gedling, Gray, Hancock, Handy, Head, Hines, Holloway, Johnson, Kenton, Kidd, LeMaster, Lile, List, Mann, McElroy, McNutt, Meyer, Morris, Nett, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, VanHorn, White, Williams, Worthington, Yates.

The motion that **HB 41**, as amended, be laid on the Clerk's desk was rejected.

Representative P. Clark moved the adoption of the Committee Substitute to **HB 41**. Agreed.

Representative P. Clark moved that **HB 41**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 41, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 41**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 3** and **HB 255** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:04 p.m.)

HB 3 and **HB 255** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 420 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that **HB 420** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 420 was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 420** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 9 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HJR 9** be passed.

On the roll call the vote was yeas 94-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HJR 9 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HJR 9** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 351 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 351** be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 351 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 351** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Speaker Pro Tempore Blandford presiding.

Representative Gray moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Gray requested that he be recorded as voting as follows: **HR 3**, yea; **HB 32**, yea; **HB 47**, yea; **HB 132**, yea; **HB 177**, yea; **HB 215**, Yea; **HB 369**, yea; **HB 370**, yea; **HB 387**, yea; **HB 358**, yea; **HB 388**, yea; **HB 421**, yea.

Representative O'Brien moved that **SCR 8** be reassigned to the Committee on Natural Resources and Environment. Agreed.

Representative Gedling moved the adoption of Legislative Citations 10 through 34. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Flaherty Fire Department of Meade County for your indispensible and outstanding services to your community in fire prevention and safety, ultimate protection the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrates your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Billy Joe Vowels, Chief of the Flaherty Fire Department, Vine Grove, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Alan Sipes, Assistant Chief of the Flaherty Fire Department, Vine Grove, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Carroll Sipes, a dedicated members of the Flaherty Fire Department, Vine Grove, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Ekron Fire Department of Meade County for your indispensable and outstanding service to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrates your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Ernie Embrey, Chief of the Ekron Fire Department, Ekron, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Jack Latondress, a dedicated member of the Ekron Fire Department, Ekron, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, J. R. Dowell, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Louie Latondress, a dedicated member of the Ekron Fire Department, Ekron, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is conforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Battletown Fire Department of Meade County for your indispensable and outstanding services to your community in fire prevention and safety, ultimate protection and the public selfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrates your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Roy Lee Humphrey, Chief of the Battletown Fire Department, Battletown, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Eddie Hockman, a dedicated member of the Battletown Fire Department, Battletown, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service that is most apparent. Your services are symbolized with perseverence and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Michael K. Thompson, a dedicated member of the Battletown Fire Department, Battletown, Kentucky for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Payneville Fire Department of Meade County for your indispensable and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrates your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Charles Dodson, Chief of the Payneville Fire Department, Payneville, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant services. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky commends you, Greg Beavin, Assistant Chief of the Payneville Fire Department, Payneville, Kentucky, for your benovelent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Rhodelia Fire Department of Meade County for your indispensable and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Bobby Hartley, Chief of the Rhodelia Fire Department, Rhodelia, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageious and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Pat Barr, Assistant Chief of the Rhodelia Fire Department, Rhodelia, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Wolf Creek Fire Department of Meade County for your indispensable and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Gedling.).

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Harold Scott, Jr., a dedicated member of the Wolf Creek Fire Department, Battletown, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Bennie Curl, a dedicated member of the Wolf Creek Fire Department, Battletown, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Lamar Mann Smith, a dedicated member of the Wolf Creek Fire Department, Battletown, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, the Meade County Rescue West, Battletown, Kentucky, for your benevolent spirit and your excellent volunteer service in providing help in various and immediate emergencies. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. Your badge of "Ready and Willing to Serve" is most evident at school, civic and recreational activities and projects. In the midst of disasters, accidents, catastrophies, calamities and tragedies, it is comforting to know that you are available and in the line of service. Your self-sacrifice and self-denial will help build a healthy and wholesome community and society. This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Julian Ory, Commander of the Meade County Rescue West, Battletown, Kentucky, for your benevolent spirit and your excellent volunteer service in providing help in various and immediate emergencies. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Commander of the Squad. Your humanitarian acts, so vital to the well-being of your gellowman, prove your ultimate concern and compassion. Your badge of "Ready and Willing to Serve" is most evident at school, civic and catastrophies, calamities and tragedies, it is comforting to know that you are available and in the line of service. Your self-sacrifice and self-denial will help build a healthy and wholesome community and society.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Gedling.)

Representative Farrow moved that the rules be suspended to request a change of vote. Agreed.

Representative Farrow requested that he be recorded as voting "yea" on **HB 132**. Agreed.

Representative Cowan requested that the rules be suspended to request a change of vote. Agreed.

Representative Cowan requested that his vote be changed from "nay" to "yea" on **HB 370**. Agreed.

Representative Noe moved that **HB 237** be withdrawn. Agreed.

Representative Arnold moved that **HB 371** be reassigned to the Committee on Cities. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 566, by Representative Thomason: AN ACT relating to horse racing dates.

HB 567, by Representative Guenthner: AN ACT relating to in-service teacher training.

HB 568, by Representative Clarke, Freibert and LeMaster: AN ACT relating to education, and declaring an emergency.

HB 569, by Representatives Moberly and Kenton: AN ACT relating to school employes.

HB 570, by Representative Burch: AN ACT relating to the equine industry.

HB 571, by Representatives Long and List: AN ACT relating to legal notices.

HB 572, by Representatives Cowan, Morris, McNutt, P. Clark, Seum, Priddy, and Blevins: AN ACT relating to racketeering activity.

HR 51, by Representatives Heleringer and Moore: A RESOLUTION adjourning the House of Representatives in Honor of President Ronald Reagan.

HR 53, by Representatives Williams, Kidd, Hines, Turner, Holloway and Allen: A RESOLUTION commemorating the 75th anniversary of the N.A.A.C.P. and supporting "Black History Month."

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 533, HB 534, HB 542, HB 543, HB 544.**

Business Organizations and Professions: **HB 165.**

Labor and Industry: **HB 366.**

Cities: **HB 123, HB 465, HB 467.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Cities: **HB 150, HB 374.**

Report of Committees

The Committee on Transportation reported **HB 346,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 346, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the cabinet, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within ten (10) days. The bill of sale or assigned title must be in the motor vehicle during this ten-day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A bill of sale and a manufacturer's certificate of origin if the application is for the registration of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(2) (a) After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before the date on which his certificate of registration expires. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(b) After that, the owner of any motor vehicle registered under KRS 186.050(2) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050(3) through (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(4) The application and documents presented therewith, including the sheriff's certificate of inspection, shall be affixed to the transportation cabinet copy of the certificate of title or registration and sent to the transportation cabinet by the clerk.

(5) At least thirty (30) days prior to the expiration of registration of any motor vehicle previously registered in the Commonwealth as provided by KRS 186A.035, the owner of said vehicle shall be notified by mail by the department of the date of expiration. In addition, the department shall provide appropriate forms and information to permit renewal of motor vehicle registration to be completed by mail. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee of which the department shall receive fifty cents (50) and the county clerk shall receive fifty cents (50). Non receipt of the notice herein shall not constitute a defense to any registration related offense.

Section 2. KRS 186.021 is amended to read as follows:

(1) No county clerk shall issue a registration for renewal or transfer for any motor vehicle on which state, county, school, or special taxing district ad valorem taxes are due and have not been paid.

(2) No county clerk shall issue a registration for any vehicle which is not insured in compliance with KRS 304.39-080(5). Proof of compliance shall be provided to the county clerk by either of two (2) methods:

(a) The county clerk shall consult the AVIS computer data base, in a manner consistent with KRS 186A.040 and Section 6 of this Act; or

(b) The applicant for registration shall submit documents to the county clerk which satisfy the requirements of regulations issued by the department of insurance.

Section 3. KRS 186A.010 is amended to read as follows:

(1) An automated motor vehicle and trailer registration and titling system shall be developed and implemented as expeditiously as practicable in all counties of the Commonwealth. The automated motor vehicle and trailer registration system shall be designed to enable Kentucky's county clerks to produce motor vehicle and trailer certificates of registration *and title* in their offices, [~~and certificates of title in Frankfort,~~] by automated means utilizing telecommunication terminals and associated devices supplied by the Commonwealth, to inhibit registration and transfer of stolen motor vehicles or trailers, to improve the capability of detecting and recovering such vehicles, *to prevent registration of uninsured vehicles,* to ensure development of a common vehicle information data base to improve efficiency in auditing motor vehicle usage tax, license fee collections, and in collecting personal property tax to provide information to the traffic record system, and to provide improved security interest protection to potential creditors throughout Kentucky while simultaneously reducing the number of forms that must be processed and stored each year in Kentucky.

(2) The transportation cabinet is hereby directed to, as expeditiously as practicable, develop an automated motor vehicle and trailer registration and titling system, having, as a minimum, the capabilities or functions described in this chapter, and to acquire and assure the installation of such equipment or services as are necessary to enable the system as described in this chapter to be operated in all counties of the Commonwealth.

(3) All departments of state government affected by the system are hereby directed to cooperate with the transportation cabinet for purposes of assuring orderly implementation of this chapter.

Section 4. KRS 186A.035 is amended to read as follows:

(1) All motor vehicles with a gross vehicular weight of 6,000 pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall

indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless cancelled by the cabinet in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last day of the next birth month of the owner following the month during which registration is applied for, provided however that, upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of one dollar ($1.00) per each twelve (12) month period or any portion thereof.

(5) At least thirty (30) days prior to the expiration of the registration of any motor vehicle previously registered in the Commonwealth as provided by subsection (1) of this section, the owner of the vehicle shall be notified by mail by the department of the date of expiration. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee of which the department shall receive fifty cents (50) and the county clerk shall receive fifty cents (50). Non receipt of the notice herein shall not constitute a defense to any registration related offense.

(6) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(7)[~~(6)~~] Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month, shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(8)[~~(7)~~] The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins, and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the department of vehicle regulation.

Section 5. KRS 186A.040 is amended to read as follows:

(1) The department of insurance [~~is hereby authorized to develop a program whereby that department~~] shall provide information on the insurance status of vehicles registered in the Commonwealth of Kentucky to the department of information systems for inclusion in the AVIS data base. *This information shall be sufficient to enable county clerks to comply with KRS 186.021(2), and shall be made available to the county clerks through the use of telecommunication terminals and associated devices in a manner consistent with this chapter and with Section 6 of this Act.*

(2) The department of vehicle regulation shall cooperate with the division of driver's licensing to coordinate renewal notification for motor vehicle operators in a manner consistent with the notification system prescribed by KRS 186.020(5) and 186A.035(5).

(3) In the event of multiple ownership of motor vehicles by an individual and a driver license expiration occurring simultaneously, the department shall utilize the data bases available to limit all renewal notifications to a single mailing per individual [~~Nothing in this section shall be construed as prohibiting the county clerk from registering or titling a vehicle because of insurance information~~].

SECTION 6. A NEW SECTION OF KRS 304.39-080 TO 304.39-090 IS CREATED TO READ AS FOLLOWS:

(1) Every authorized insurance company which contracts to provide insurance required by KRS 304.39-080(5) shall, at least once per month, furnish the department of insurance with information on each such contract. This information shall:

(a) Include the name of the owner of each insured vehicle; a description of each vehicle, including the vehicle identification number, year, make, model name, and model number; whether or not the vehicle is insured in compliance with KRS 304.39-080(5); and the name of the insurer;

(b) Inform the department of the cancellation or nonrenewal of any such contract; and

(c) Be provided to the department on magnetic media compatible with central computer hardware of the department of information systems.

(2) Within one (1) working day of receiving this information, the department of insurance shall provide the department of information services with sufficient data to enable county clerks to comply with KRS 186.021(2). County clerks shall have access through the AVIS data base only to the name of the owner of

each insured vehicle, the vehicle identification number of each insured vehicle, and a "yes" or "no" determination of whether or not each vehicle is covered by the required insurance.

(3) The department of insurance shall issue regulations further specifying the form in which this information is to be provided and the dates on which it is to be submitted. These regulations shall give insurers the option of providing the information required for county clerks in subsection (2) of this section directly to the AVIS data base on a real-time entry basis.

Section 7. KRS 186A.060 is amended to read as follows:

The department of vehicle regulation is directed to develop, in cooperation with county clerks, auto dealers, and the departments of revenue and insurance and the department of state police, a combined vehicle transaction record form to permit, to the extent feasible, the recording of all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The form shall be utilized by all applicable parties in connection with the registration, or titling of a vehicle in this state. The form shall have at least the following characteristics:

(1) An appropriate heading or title.

(2) A statement that the information required by the first or original of the form must be legibly printed in dark blue or black, permanent photoreproducing ink or indelible pencil, or typed in black, except as to signatures, which shall be originally signed in dark blue or black photoreproducing ink.

(3) A statement, prominently printed in boldface type, that any person who knowingly enters, or attests to the entry of, false or erroneous information upon the form shall be subject to the penalties of forgery in the second degree.

(4) A seller or transferor section containing space for the seller or transferor's full legal name, mailing address and telephone number, including telephone area code, and if the seller or transferor is a motor vehicle dealer licensed in this state, a space for recording the dealer license number.

(5) An owner or buyer section, containing space for the owner or buyer's full legal name, mailing address, social security account number, or, if the owner is other than a person, its state or federal employer identification number, telephone number including telephone area code, and owner's birth month.

(6) A vehicle description section with space for the vehicle identification number, and if the vehicle is a motorcycle, a motor number; the make; model name; model number; year model; number of cylinders; style of body; and spaces for designating two (2) colors, single or upper, and lower; and, if the vehicle is a truck, its gross weight.

(7) A section with spaces for recording prior registration and title information to include the previous owner's name, the state in which a vehicle was last registered or titled, and the title number, registration number, and year.

(8) An odometer disclosure section containing all information elements required by applicable federal law, except that, the language of the section shall incorporate by reference the transferor's address, the vehicle description, date of the statement and the transferee's name, address and acknowledgment, which shall appear on the same form, although not necessarily within the same section. Such section shall be imprinted with the warning that knowingly giving false or erroneous information is subject to the penalty of forgery in the second degree.

(9) A transferor's lien declaration section, containing the necessary means to obtain the following information: I ----- warrant that the vehicle described above is not subject to an unterminated lien in the name of a prior owner.

(10) A tax computation section for both new and used cars, consistent with requirements of the department of revenue.

(11) A section for the seller or transferor's certificate of truth and accuracy of the information. The section shall be printed in boldface type and shall read: I ----- (typed or printed name) hereby certify under penalty of forgery in the second degree and applicable federal and state law and regulations that the foregoing information upon this form is true and correct to the best of my knowledge and belief. ----- (signature).

(12) This language shall be followed by the words and spaces required for a notarial certificate.

(13) An owner or transferee's lien declaration section, containing the necessary means to obtain the following information: I, -----, (owner, transferee), have not applied for a loan in connection with the vehicle described above, and do not expect to do so within thirty (30) days of submission of this application to the county clerk.

(14) A lien information section containing the necessary elements to obtain the following information:

(a) This vehicle shall be subject to lien or liens, not exceeding two (2), in the name of the applicant, owner or transferee;

(b) Spaces for recording as to a first and second lien, the lienholder's name and mailing address, including zip code; and county in which the financing statement is to be filed;

(c) A statement as to whether a loan has been or will be applied for in connection with the vehicle, and whether a financing statement is expected to be filed within thirty (30) days of submission of this application to the county clerk.

(15) A section for an owner's request for issuance of a regular or special plate.

(16) A section for an owner's request for registration of a vehicle under a special fee classification.

(17) A section for the owner's statement of application for registration or a certificate of title. The section shall state: I ----- (typed or printed name) hereby apply for registration of the vehicle described above, for a license plate of the type indicated, or a certificate of title. If I have requested that the vehicle be registered under a special use classification provided by statute, I certify that the vehicle will be operated consistent with the registration classification I have indicated. I certify under penalty of forgery in the second degree that the information I have supplied is true and correct to the best of my knowledge and belief, followed by a space for the owner's signature. This language and space shall be followed by the words and spaces required for a notarial certificate.

(18) A section for the certified vehicle inspector's certificate of inspection of a vehicle which shall include words and spaces as indicated: I ----- (printed or typed name and title) of ----- (printed or typed county) ----- (telephone area code and telephone number), do hereby certify under penalty of forgery in the second degree that I have personally and physically inspected the vehicle described above, together with this application and its supporting documents,and the vehicle is as described hereon; the documents supporting this application are consistent with the vehicle description, including the vehicle identification numbers appearing upon this application, and that the vehicle identification number displayed upon the vehicle and supporting documents appear to be in order. The odometer reading at the time of my inspection was ----- miles/kilometers (circle one). The driver's license number of the owner is -----, state of -----. I hereby certify under penalty of forgery in the second degree that the information I have given is true and correct to the best of my knowledge and belief. ----- (signature) ----- (date).

(19) County clerk's section with words and spaces as appropriate, requiring the county clerk to:

(a) Enter the type, name of the issuer, identifying number and date of issue, of the document supporting the application, together with its document control number (as distinguished from title number) and the taxes and fees to be collected, including the number of months of registration sold, the month and year of expiration, and such decal numbers as may be required to permit audit of fee collections;

(b) Words requiring, and spaces for entry of, the name of the county in which the application was received together with the date and time of receipt, and space for the signature of the clerk or deputy, which shall be preceded by the words "I certify under penalty of forgery in the second degree that I have reviewed this application and the documents supporting it; all supporting documents indicated hereon are present and consistent in pertinent part with this application, that I received the application on the date and at the time indicated hereon, and that I collected the fees as indicated." ----- (signature of clerk or deputy clerk, date, county).

(20) A statement that "I certify under penalty of forgery in the second degree that this record was entered with due diligence into the automated system by me at or about ----- (time) -----.(date) ----- (signature) ----- (title)."

(21) [~~Spaces for stamping the date and time of receipt of the application by the department of vehicle regulation and for the signature or prescribed symbol of the receipt clerk and for endorsements by processing clerks.~~

~~(22) A space for endorsement that title issuance was recommended to the department of vehicle regulation —— (date, time) by —— (signature) which shall be preceded by the words "I certify under penalty of forgery in the second degree that due diligence has been exercised in recommending issuance of title No. —— in the name of the applicant for the vehicle described above" —— (signature, date).~~

~~(23)~~] The form may contain or require any other information deemed appropriate by the department of vehicle regulation in cooperation with the departments of revenue and insurance and the department of state police, and may be organized as efficiency dictates. Section 8. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall *submit* [~~, before submitting~~] his application for title to the county clerk, *and* have the vehicle together with his application for title, [~~and~~] its supporting documents *and the new title document* inspected by a certified inspector in the county in which the application for title is to be submitted [~~to the county clerk~~]. *The inspection of those documents shall occur prior to the county clerk affixing his or her signature on the new title document.*

(a) The certified inspector shall be certified through the department of vehicle regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) There shall be a three dollar ($3.00) fee for this certification, payable to the sheriff's office, upon completion of certification.

(c) There shall be an additional fee of seven dollars ($7.00) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a non-negotiable registration document is to be issued; and

(c) Motor vehicles operated by a motor carrier under a non-negotiable certificate or permit issued by the department of vehicle regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky, may be inspected by the post provost or similar officer of the camp, post or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name, shall be accompanied by one of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the armed forces of the United States, the county clerk may accept on behalf of the department of vehicle regulation evidence of ownership provided the applicant by the United States department of defense;

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the department of vehicle regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle when registration or title is sought in this state, together with the vehicle transaction record, [~~and~~] its supporting documentation, *and the new certificate of title* on the following points:

(a) He shall ensure that the vehicle transaction record and each of its copies are legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the vehicle transaction record, and its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the transaction record; and

(d) After exercising due diligence in inspecting the vehicle, the vehicle transaction record, and its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided, his first name, middle initial and last name, and his title, the name of the county in which he serves and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfully altered vehicle identification number;

(c) The vehicle transaction record and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;

(d) The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(e) He has probable cause to believe the vehicle is stolen.

Section 9. KRS 186A.170 is amended to read as follows:

(1) The *county clerk* [~~department of vehicle regulation~~] shall[~~:~~

~~(a) Within five (5) working days~~] following receipt by *him* [~~it~~] of an application for a certificate of title in proper form, process the application and its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents, issue a certificate of title in the name of the owner [~~and send it postpaid to such owner.~~

~~(b) The department of vehicle regulation shall provide by regulation, a procedure for direct delivery, as distinguished from delivery by mail, of a certificate of title to an owner or owner's agent, and may establish a fee deemed reasonable by it for such service~~].

(2) *Prior to the issuance of the certificate of title, the department of vehicle regulation shall ensure that the clerk can complete the following procedures* [~~Upon receiving an application packet from a county clerk, the application receipt clerk of the department of vehicle regulation shall~~]:

(a) Cause the date and time of receipt to be stamped on *all copies* [~~both the department's copy and the acknowledgment copy~~] of the application transmittal record and accompanying documents;

(b) [~~Cause at least duplicate sets of microfilm images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys;~~

~~(c)~~] Compare the application transmittal record with the documents accompanying it;[~~, and, if all applications shown upon the record are accompanying the record, endorse the department's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgment copy to the clerk who issued it.~~]

(c) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the national crime information center (NCIC) computerized listings of vehicles reported stolen; if (NCIC) is not operational, the county clerk shall withhold the title until the appropriate check can be made and upon completion transmit by first class mail to the applicant if the application if determined to be in proper form;

(d) Send the title applicant to the certified inspector to compare the computer produced certificate of title with the owner application, the supporting documents and the vehicle; and

(e) Upon return of the applicant and based on notification of the certified inspector that the application, supporting document, new title and vehicle contain no discrepancies, sign the title document, thereby validating the certificate of title.

(3) In the event there is a discrepancy between the application transmittal record and the application attached to it, the *county clerk* [~~department of vehicle regulation~~] shall *notify the applicant of* [~~note~~] the discrepancy [~~upon the department's copy and the acknowledgment copy,~~] and shall *not issue a certificate of title until* [~~promptly contact the issuing clerk and resolve~~] the discrepancy *is resolved.* After resolving the discrepancy, the *clerk* [~~department~~] shall note the nature of the disposition of the discrepancy and endorse the respective copies [~~and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk~~].

(4) *The certified inspector located in the sheriff's office* [~~After executing the acknowledgment of receipt of applications, the department of vehicle regulation~~] shall carry out the following action with respect to each application:

(a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The *certified inspector* [~~department of vehicle regulation~~] shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;

(b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;

(c) Assure that the vehicle identification number of the subject vehicle is apparently legitimate;

(d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the national crime information center (NCIC) computerized listings of vehicles reported stolen*; if* [~~, unless~~] NCIC is not operational, [~~and~~] the *inspector shall be required to ensure that the appropriate check is made prior to the clerk mailing the title* [~~department has official notification that it is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it~~];

(e) Compare the computer produced certificate of title for consistency with the owner's application and supporting documents.

(5) When the title application has been completed, [~~and~~] the *certified inspector* [~~application examiner~~] at each significant stage *shall indicate* [~~has indicated~~], by placing his unique symbol upon the application in the space provided thereon, that an application has passed the required examinations[~~, the application shall be examined by a title examination certifier.~~

~~(6) The title application certifier shall ensure that each application has received the required examinations as indicated by the presence of each required examiner's symbol. Upon satisfying himself that an application has passed the required examinations, the title examination certifier shall place his unique symbol together with the date upon the application~~].

(6)[~~(7)~~] The *county clerk* [~~department of vehicle regulation~~] shall *notify the department of state police* [~~withhold issuance of a title, until its questions are resolved to its satisfaction,~~] when it finds material discrepancies or has information giving probable cause to believe:

(a) That an applicant is not the lawful owner of a vehicle for which he seeks a title;

(b) His application is not in order;

(c) The documentation supporting an application is insufficient or fraudulent;

(d) The vehicle has an illegitimate vehicle identification number;

(e) The vehicle is stolen; or

(f) That the computer produced certificate of title is not consistent with the owner's application.

(7)[~~(8)~~] When the *county clerk* [~~department of vehicle regulation~~] finds that a certificate of title should be issued for a vehicle, the endorsement of the *county clerk* [~~commissioner of the department of vehicle regulation~~] shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the *county clerk's office* [~~department of vehicle regulation~~] has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. -------------- (signature), *county clerk* ----- *county, Commonwealth of Kentucky* [~~commissioner, department of vehicle regulation, Kentucky transportation cabinet~~].

Section 10. KRS 186A.175 is amended to read as follows:

(1) Each certificate of title issued by the *county clerk* [~~department of vehicle regulation~~] shall contain:

(a) The date of its issue;

(b) The name, social security account number or federal employer identification number and current mailing address of the owner, to include zip code;

(c) The names and addresses of any lienholders, not exceeding two (2);

(d) The title number;

(e) A description of the vehicle including the following data: year, make, model name, model number, vehicle identification number, type of body, number of cylinders, color or colors not exceeding one upper and one lower color, and if the vehicle is a truck, its gross weight;

(f) If last titled in another state, the name of the state and the title number;

(g) Forms for assignment and warranty of title by the owner, and for assignments and warranty of title by dealers;

(h) Any other information the department requires;

(2) A certificate of title issued by the *clerk* [~~department~~] is prima facie evidence of the facts appearing on it.

Section 11. KRS 304.99-060 is amended to read as follows:

[~~(1)~~] The owner of any vehicle who fails to have in full force and effect security required by subtitle 39 of KRS Chapter 304 [~~and who does not have any sticker or emblem affixed to vehicle~~] shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and shall have the license plates thereof suspended for a period of thirty (30) days or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.

[~~(2) The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 and who has affixed to the vehicle a sticker or emblem which he knows was not in full force and effect at that time shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and shall have the license plates of such vehicle suspended for a period of ninety (90) days or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.~~

~~(3) The owner of any vehicle who fails to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 and who has affixed to the vehicle a sticker or emblem which he knows is fraudulent or counterfeit shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall have the license plates of such vehicle suspended for a period of one (1) year or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.~~

~~(4) Any person who fraudulently distributes any sticker or emblem or temporary certificate or binder of insurance or who knowingly distributes a counterfeit sticker or emblem or temporary certificate or binder of insurance to any person for any vehicle shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or confined to the county jail for a period not to exceed thirty (30) days or both.~~

~~(5) Any person cited for a violation of KRS 304.39-085 who exhibits to the trial court a written certificate executed by his insurer or its representative or agent that on the date of the citation there was in full force and effect the security required by subtitle 39 of KRS Chapter 304 shall be acquitted and the action shall be dismissed.~~]

Section 12. KRS 304.39-085 Sticker or emblem evidencing insurance coverage to be affixed to motor vehicles -- Responsibility of insured and insurer -- Issuance of citations for noncompliance, is repealed.

Section 13. This Act shall become effective on July 1, 1985.

The Committee Amendment No. 1 to **HB 346** is as follows:

Amend printed copy of **HB 346** on page 5, line 11, after the word "registration" by deleting the word "*and title*"; and

On page 5, line 12 after the word "offices,", by removing the brackets from "and certificates of title in Frankfort,"; and

On page 11, line 22, through page 30, line 22, by deleting those lines in their entirety; and

On page 30, line 23, Section 11 becomes Section 7; and

On page 32, line 20, Section 12 becomes Section 8; and

On page 32, line 24, Section 13 becomes Section 9.

The Committee Amendment No. 2 to **HB 346** is as follows:

Amend printed copy of **HB 346** on page 10, by deleting lines 15-26 in their entirety; on page 11, by deleting lines 1-4 in their entirety; on page 10, line 15, by inserting the following language:

"(1) Every authorized insurance company which provides insurance required by KRS 304.39-080(5) shall, on the effective date of this Act, furnish the department of insurance with information on each such contract it holds. This information shall be provided on magnetic media compatible with central computer hardware of the department of information systems, and shall include:

(a) the name of the owner of each insured vehicle;

(b) a description of each vehicle, including the vehicle identification number, year, make, model name, and model number;

(c) whether or not the vehicle is insured in compliance with KRS 304.39-080(5); and

(d) the name of the insurer.

(2) At least once per month thereafter, each insurance company which has provided information under subsection (1) shall inform the department of the cancellation or nonrenewal of any such contract. Any insurance company which contracts after the effective date of this Act to provide any insurance required by KRS 304.39-080(5) shall furnish the department of insurance with the information required in paragraphs (a) - (d) of subsection (1) and shall at least once per month thereafter provide the department with information on the cancellation or nonrenewal of such contract."

On page 11, line 5, by deleting "(2)" and placing in lieu thereof "*(3)*";

On page 11, line 15, by deleting "*(3)*" and inserting in lieu thereof "*(4)*"

On page 11, line 20, by deleting "*(2)*" and inserting in lieu thereof "*(3).*"

The Committee on Health and Welfare, reported **HB 319** with Committee Amendment attached thereto, **HB 486, HB 154** with Committee Substitute attached thereto, and **HB 203** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 319, AN ACT relating to dental hygienists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of dentistry.

(2) Any person shall be regarded as "practicing dentistry" who, for a fee, salary or other reward paid, or to be paid either to himself, or to another person, performs or advertises to perform, dental operations of any kind, or who diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who diagnoses or treats disorders, or deficiencies of the oral cavity and adjacent associated structures, or who takes impressions of the human teeth or jaws to be used directly in the fabrication of any intraoral appliance, or shall construct, supply, reproduce or repair any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except upon the written laboratory procedure work order of a licensed dentist and constructed upon or by the use of casts or models made from an impression taken by a licensed dentist, or who shall advertise, offer, sell or deliver any such substitute or the services rendered in the construction, reproduction, supply or repair thereof to any person other than a licensed dentist, or who places or adjusts such substitute in the oral cavity of another, or who uses the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry.

(3) "Dental hygiene" shall mean the treatment of human teeth by scaling, polishing, planing and removing therefrom calcareous deposits, and by removing accumulated accretion from beneath the free margin of the gums, and may also include other dental activities not specifically prohibited by this chapter or by regulation of the board provided, that nothing in KRS 313.260 to 313.350 shall be so construed as to affect the practice of medicine or dentistry nor to prevent students of a dental college or university from practicing dental hygiene under supervision of their instructors; and, provided further, that nothing in KRS 313.260 to 313.350 shall be construed to authorize any dental hygienist to perform any operation in a patient's mouth *unless such operation is performed after the specific authorization and under the general supervision of a licensed dentist; provided, however, such dentist need not be physically present when the authorized procedures are performed. The authorized procedures may be performed at such places as the dentist may designate or direct, including hospitals and nursing homes, and need not be performed at the office, clinic, or other location where such dentist customarily maintains or usually operates a dental practice. No licensed dental hygienist shall be permitted to practice independently from the authorization and general supervision of a licensed* [~~without supervision of a~~] dentist.

(4) "Dental laboratory" includes any person, firm or corporation other than a licensed dentist, who directly or through an agent or employe, by any means or method, in any way supplies or manufactures artificial substitutes for the natural teeth, other than those unfinished substitutes normally available through dental supply houses, or who furnishes, supplies, constructs or reproduces or repairs any prosthetic denture, bridge or appliance to be worn in the human mouth or who performs or offers or undertakes to perform or accomplish dental laboratory technology.

(5) "Dental laboratory technician" means any individual who performs or offers or undertakes to perform or accomplish dental laboratory technology and who is classified as such by regulations of the board adopted as provided in this chapter.

(6) "Commercial dental laboratory" shall mean any dental laboratory as defined in subsection (4) of this section other than a laboratory of practicing dentists, accredited schools and nonprofit institutions for use only for their own patients.

(7) "Commission" means the dental laboratory advisory commission.

(8) "Laboratory association" means the Kentucky dental laboratory association.

Section 2. KRS 313.310 is amended to read as follows:

No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board, and unless he is an employe of a licensed and practicing dentist in this state and is under the *general* [~~continuous~~] supervision and inspection of such dentist, provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization. A practicing dentist may not have in his employ more than the equivalent of two (2) full-time dental hygienists. The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office of the licensee.

The Committee Amendment No. 1 to **HB 319** is as follows:

Amend printed copy of **HB 319** on page 3, line 8, as follows:

After the word "*practice*" insert the following: "*The board shall promulgate rules and regulations setting forth procedures authorized to be performed by any dental hygienist, under the general supervision of a licensed dentist, and the practice locales where such authorized procedures may be performed when such procedures are not performed at the office, clinic or other location where such dentist usually operates a dental practice.*"

HB 486, AN ACT relating to sexually abused, missing and exploited children, including those persons who commit offenses relating thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 through 9 of this Act:

(a) "Child" means a person under eighteen (18) years of age;

(b) "Child sexual abuse and exploitation" means harm to a child's health or welfare by any person, responsible or not for the child's health or welfare, which harm occurs or is threatened through nonaccidental sexual contact which includes violations of KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320 and 531.370;

(c) "Local task force" means an organization which meets the criteria described in Section 9 of this Act;

(d) "State board" means the state child sexual abuse and exploitation prevention board created in Section 3 of this Act;

(e) "Prevention program" means a system of direct provision of child sexual abuse and exploitation prevention services to a child, parent, or guardian, but shall not include research programs related to prevention of child sexual abuse and exploitation; and

(f) "Trust fund" means the child victims' trust fund established in the office of the state treasurer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state child sexual abuse and exploitation prevention board is created as an autonomous agency within the office of the attorney general, except that budget, procurement, and related management functions shall be performed by the office of the attorney general.

(2) The state board may appoint an executive director of the state board to exercise the powers and carry out the duties of the state board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall be composed of the following members:

(a) The secretary of the human resources cabinet, the secretary of finance and administration cabinet, the superintendent of public instruction, the commissioner of the state police, and the attorney general, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the attorney general. As a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The attorney general shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the attorney general. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as is established annually by the legislature for similar boards that are reimbursed from the general fund. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The business which the state performs shall be conducted at a public meeting of the state board held in compliance with the open meetings act.

(2) A writing prepared, owned, used, in the possession of, or retained by the state board of the performance in an official function shall be made available to the public in compliance with the open records act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall do all of the following:

(a) Meet not less than twice annually at the call of the chairperson;

(b) One (1) year after the original appointment of the state board, and biennially thereafter, develop a state plan for the distribution of funds from the trust fund. In developing the plan, the state board shall review already existing prevention programs. The plan shall assure that an equal opportunity exists for establishment of prevention programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the house of representatives, to the clerk of the senate, and to the governor;

(c) Provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;

(d) Develop and publicize criteria for the receipt of trust fund money by eligible local task forces and eligible prevention programs;

(e) Review, approve, and monitor the expenditure of trust fund money by local task forces and prevention programs;

(f) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the prevention of child sexual abuse and exploitation; encourage professional persons and groups to recognize and deal with prevention of child sexual abuse and exploitation; encourage and coordinate the development of local task forces; make information about the prevention of child sexual abuse and exploitation available to the public and organizations and agencies which deal with problems of child sexual abuse and exploitation; and encourage the development of community prevention programs; and

(g) Establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the state board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.

(2) The state board shall enter into contracts with public or private agencies to fulfill the requirements of subsection (1)(f) of this section and may contract to fulfill the other requirements of subsection (1) of this section. The state board shall utilize existing state resources and staff of participating departments whenever practicable.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may recommend to the governor and the legislature changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of child sexual abuse and exploitation, improve coordination among state agencies that provide prevention services and improve the condition of children and parents or guardians who are in need of prevention program services.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may accept federal funds granted by the Congress or executive order for the purposes of this Act as well as gifts and donations from individuals, private organizations, or foundations. The acceptance and use of federal funds does not commit state funds and does not place an obligation upon the legislature to continue the purposes for which the federal funds are made available. All funds received in the manner described in this section shall be transmitted to the state treasurer for deposit in the trust fund, and shall be made available for expenditure as appropriated by the general assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, for exclusively the following purposes, which are listed in the order of preference for expenditure:

(a) To fund a private nonprofit or public organization in the development or operation of a prevention program if at least all of the following conditions are met:

1. The appropriate local task force has reviewed and approved the program. This subparagraph does not apply if a local task force does not exist for the geographic area to be served by the program;

2. The organization demonstrates an ability to match, through money or in-kind services, fifty percent (50%) of the amount of any trust fund money received. The amount and types of in-kind services are subject to the approval of the state board;

3. The organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance; and

4. Other conditions that the state board may deem appropriate.

(b) To fund local task forces; and

(c) To fund the state board created in Section 2 of this Act for the actual and necessary operating expenses that the board incurs in performing its duties.

(2) Authorizations for disbursement of trust fund money under subsection (1)(c) of this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund which is to disburse money under subsections (1)(a) and (b) of this section to encourage the direct provision of services to prevent child abuse and exploitation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

In making grants to a local task force, the state board shall consider the degree to which the local task force meets the following criteria:

(1) Has as its primary purpose the development and facilitation of a collaborative community prevention program in a specific geographical area. The prevention program shall utilize trained volunteers and existing community resources wherever practicable;

(2) Is comprised of local law enforcement and social services representatives and does not exclude any organization or person that the state board deems necessary;

(3) Demonstrates a willingness and ability to provide prevention program models and consultation to organizations and communities regarding prevention program development and maintenance;

(4) Demonstrates an ability to match, through money or in-kind services, fifty percent (50%) of the amount of any trust fund money received. The amount and types of in-kind services are subject to the approval of the state board; and

(5) Other criteria that the state board deems appropriate.

SECTION 10. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law, an employer may request from the justice cabinet records of all convictions involving any sex crimes of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The cabinet shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(2) Any request for records under subsection (1) of this section shall be on a form approved by the cabinet, and the cabinet may charge a fee to be paid by the employer for the actual cost of processing the request. The cabinet shall destroy an application within six (6) months after the requested information is sent to the employer and applicant.

(3) The cabinet shall adopt regulations to implement the provisions of this section.

(4) As used in this section "employer" means any nonprofit corporation or other organizations specified by the attorney general which employs or uses the services of volunteers in positions in which the volunteer or employe has supervisory or disciplinary power over a child or children.

(5) As used in this section "sex crime" means a conviction for a violation or attempted violation of KRS 510.040 to 510.150, 529.020 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.340 to 531.370, and the criminal offense of unlawful transaction with a minor. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

SECTION 11. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The justice cabinet shall establish within the cabinet a "Kentucky Missing Child Information Center", which shall serve as a central repository of and clearinghouse for information about Kentucky children believed to be missing and children from other states believed to be missing in Kentucky.

(2) The cabinet shall provide the missing child information center with computer equipment and a computer program which shall list and be capable of immediately retrieving the name and complete description of any missing Kentucky child referred to in subsection (1) of this section.

(3) The cabinet shall design the computer program so as to accept and generate complete information on a missing child, which information shall be retrievable by the child's name and date of birth, social security number, fingerprint classification, any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.

(4) Only law enforcement agencies shall be authorized to order missing child information entered into or retrieved from the missing child information center computer, except that a parent or guardian may order from the state police information on his or her child to be entered or retrieved when another law enforcement agency has refused to enter or retrieve such missing child information.

(5) The cabinet, through the Kentucky missing child information center, shall regularly issue emergency flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the cabinet.

(6) For purposes of this Act, child shall mean any person under eighteen (18) years of age or any person certified or known to be mentally incompetent or disabled.

(7) A complete written report shall be issued annually by the cabinet, which report shall include statistical information on the numbers of missing children entered on the computer and located and

recommendations for more accurate and timely reports and better usage of the computer.

(8) The cabinet may issue regulations in conformance with this section which provide for the orderly receipt of missing child information and requests for retrieval of missing child information.

SECTION 12. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Upon notification by a parent or guardian that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the justice cabinet and which shall include such information as the cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location and known associates.

(2) As soon as possible after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky missing child information center computer and shall cause the report to be entered into the national crime information center computer.

(3) As soon as possible thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) Within twenty-four (24) hours after a missing child is located and returned to his parent, guardian or to the state, if a ward of the state, the law enforcement agency which found or returned the missing child shall notify both the missing child information center and the national crime information center of that fact.

SECTION 13. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The child victims' trust fund is created as a separate fund in the office of the state treasurer. The fund shall be expended only as provided in this section.

(2) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose and any amounts received under the child sexual abuse and exploitation prevention act.

(3) The state treasurer shall invest trust fund money in the same manner as surplus funds are invested. Earnings shall be credited to the trust fund.

(4) Until the total amount of assets in the trust fund exceeds twenty million dollars ($20,000,000), not more than one-half of the money contributed to the trust fund each year, plus the earnings credited to the trust fund during the previous fiscal year, shall be available for disbursement upon the authorization of the state board as provided in Section 8 of this Act. After such time that the state treasurer certifies that the assets in the trust fund exceed twenty million dollars ($20,000,000), only the earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in Section 8 of this Act.

(5) Funds granted or funds received as gifts or donations to the child victims' trust fund shall be available for disbursement upon appropriation by the general assembly, and funds authorized for expenditure shall not be considered assets for purposes of subsection (4) of this section.

SECTION 14. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Effective for the tax year beginning January 1, 1984 and until the state treasurer certifies that the assets in the child victims' trust fund exceed twenty million dollars ($20,000,000), any individual who is entitled to a tax refund sufficient to make a designation under this section may designate that two dollars ($2.00) of his or her refund be credited to the child victims' trust fund. In the case of a joint return of husband and wife who are entitled to a tax refund under this Act sufficient to make a designation under this section, a designation may be made that four dollars ($4.00) of their refund be credited to the child victims' trust fund.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return.

(3) The tax imposed by this Act is in addition to all other taxes for which the taxpayer may be liable and the proceeds derived from the tax shall be credited to the general fund to be allocated and distributed as provided in Sections 1 through 9 of this Act.

(4) Each year that the refund designation program established in subsection (1) of this section is in effect, an amount equal to the cumulative designations made under subsection (1) of this section, less the annual amount appropriated to the office of the state treasurer for the purpose of administering the child victims' trust fund and implementing subsection (1) of this section, shall be appropriated from the general fund to the child victims' trust fund in the office of the state treasurer for use solely in support of the child victims' trust fund.

SECTION 15. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The department of education shall provide, by regulation, for a program to identify and locate missing Kentucky school children who are enrolled in Kentucky public and private schools in kindergarten through grade twelve (12). Pursuant to such program, the department shall:

(a) Prepare forms to be forwarded, upon request, to the parents or guardians of missing Kentucky school children enrolled in kindergarten through grade twelve (12). The forms shall be designed to include such information as the department deems necessary for the identification of the missing child, including the

child's physical description and last known location;

(b) Compile from the information on such forms a list of missing Kentucky school children, to be distributed monthly to all public and private schools admitting children to kindergarten through grade twelve (12). The list shall include the names of all such missing children, together with such other information as the department deems necessary; and

(c) Notify the appropriate local, state or federal law enforcement authority as soon as any additional information is obtained or contact is made with respect to a missing Kentucky school child.

(2) Every public and private school in this state shall notify the department of education at its earliest known contact with any child whose name appears on the department's list of missing Kentucky children.

Section 16. KRS 346.010 is amended to read as follows:

The general assembly hereby declares that it serves a public purpose and is of benefit to the state to indemnify those needy residents of the Commonwealth of Kentucky who are innocent victims of criminal acts and who suffer bodily *or, in the case of a child, psychological* injury or death as a consequence thereof. Such persons or their dependents may thereby suffer disability, incur financial hardships and become dependent upon public assistance. To that end, it is the general assembly's intent that aid, care and support be provided by the state, as a matter of grace, for such victims of crime.

Section 17. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the crime victims compensation board.

(2) *"Child" means any person less than eighteen (18) years of age.*

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them.

(4)[~~(3)~~] "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal *physical, or in the case of a child, psychological* injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted.

(5)[~~(4)~~] "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person.

(6)[~~(5)~~] "Victim" means a resident of this state or the resident of a reciprocal state, who suffers personal *physical, or in the case of a child, psychological* injury or death from a criminal act in Kentucky as a result of:

(a) Criminally injurious conduct;

(b) A good faith effort to prevent criminally injurious conduct; or

(c) A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

Section 18. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical *or, in the case of a child, psychological* injury to or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall exclude therefrom the initial one hundred dollars ($100) of losses incurred and shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Provided, however, that any award made pursuant to this chapter to a victim sixty-five (65) years of age or older shall not exclude therefrom the initial one hundred dollars ($100) of losses incurred.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result

of criminally injurious conduct the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument and grave plot. In no event shall an award for funeral expenses exceed twenty-five hundred dollars ($2,500).

(6) Any award made under this chapter shall not exceed fifteen thousand dollars ($15,000).

SECTION 19. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) This Act applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to 510.150, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, and the criminal offense of unlawful transaction with a minor when the minor is induced, assisted or caused to engage in illegal sexual activity, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies only to the statements or testimony of that child.

(2) The recording of an oral statement of the child made before the proceeding begins is admissible into evidence if:

(a) No attorney for either party was present when the statement was made;

(b) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;

(c) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(d) The statement was not made in response to questioning calculated to lead the child to make a particular statement;

(e) Every voice on the recording is identified;

(f) The person conducting the interview of the child in the recording is present at the proceeding and available to testify or be cross-examined by either party;

(g) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence; and

(h) The child is available to testify.

If the electronic recording of the oral statement of a child is admitted into evidence under this section, either party may call the child to testify, and the opposing party may cross-examine the child.

(3) The court may, on the motion of the attorney for any party, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.

(4) The court may, on the motion of the attorney for any party, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:

(a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;

(b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;

(c) Each voice on the recording is identified; and

(d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.

(5) If the court orders the testimony of a child to be taken under subsections (3) or (4) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken.

Section 20. KRS 509.070 is amended to read as follows:

(1) A person is guilty of custodial interference when, knowing that he has no legal right to do so, he takes, entices or keeps from lawful custody any mentally disabled or other person entrusted by authority of law to the custody of another person or to an institution.

(2) It is a defense to custodial interference that the person taken from lawful custody was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.

(3) Custodial interference is a Class D felony unless the person taken from lawful custody is returned voluntarily by the defendant [~~or unless the defendant is a relative of the victim~~] in which case it is a Class A misdemeanor.

SECTION 21. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful transaction with a minor in the first degree when he knowingly induces, assists, or causes a minor to engage in illegal sexual activity except those offenses involving minors in KRS Chapter 531 and KRS 529.040(1)(b), illegal controlled substances activity, illegal gambling activity, or any other criminal activity.

(2) Unlawful transaction with a minor in the first degree is a Class D felony.

Section 22. KRS 530.070 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor *in the second degree* when:

(a) Acting other than as a retail licensee, he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or

(b) [~~He knowingly induces, assists, or causes a minor to engage in illegal sexual activity except those offenses involving minors in KRS Chapter 531 and KRS 529.040(1)(b), illegal controlled substances activity, illegal gambling activity or any other criminal activity; or~~

~~(c)~~] He knowingly induces, assists or causes a minor to become a habitual truant; or

(c)[~~(d)~~] He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.

(2) Unlawful transaction with a minor *in the second degree* is a Class A misdemeanor.

Section 23. KRS 532.040 is amended to read as follows:

When a person is convicted of an offense, other than a capital offense, the court, where authorized by KRS Chapter 533 *and where not prohibited by other provisions of applicable law,* may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

SECTION 24. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for any of the following persons:

(a) A person convicted of violating KRS 510.040 to 510.150, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or the criminal offense of unlawful transaction with a minor when the minor is induced, assisted or caused to engage in illegal sexual activity, when the act is committed against a minor by the use of force, violence, duress, menace or threat of bodily harm;

(b) A person who, in committing any of the offenses enumerated in subsection (1)(a) of this section caused bodily injury to the minor;

(c) A person convicted of any of the offenses enumerated in subsection (1)(a) of this section and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in subsection (1)(a) of this section, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

(d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in subsection (1)(a) of this section;

(e) A person convicted of any of the offenses enumerated in subsection (1)(a) of this section and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in subsection (1)(a) of this section;

(f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in subsection (1)(a) of this section.

(g) A person who is convicted of committing any of the offenses enumerated in subsection (1)(a) of this section on more than one (1) minor at the same time or in the same course of conduct.

(h) A person who in committing any of the offenses enumerated in subsection (1)(a) of this section has substantial sexual conduct with a minor under the age of fourteen (14) years;

(i) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor. Position of authority includes, but is not limited to, the position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager,

adult coach, teacher, counselor, religious leader, doctor, or employer.

(2) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the minor or the offender.

(3) Paragraphs (g), (h), and (i) of subsection (1) of this section shall not apply when the court makes all of the following findings:

(a) The defendant is the minor's natural parent, adoptive parent, stepparent, relative, or is a member of the minor's household who has lived in the household;

(b) Imprisonment of the defendant is not in the best interest of the child;

(c) Rehabilitation of the defendant is considered extremely likely in a recognized treatment program designed to deal with child molestation, and, if the defendant is to remain in the household, a program that is specifically designed to deal with molestation within the family;

(d) There is no threat of physical harm to or sexual contact with the minor if there is no imprisonment. The court upon making its findings pursuant to this section is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

(4) The existence of any fact which would make a person ineligible for probation under subsection (1) of this section shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Section 25. Not later than two (2) years after the effective date of this Act, the state board shall promulgate administrative regulations for the implementation of Sections 1 through 9 of this Act pursuant to KRS Chapter 13.

Section 26. A thorough, written review of the functions, responsibilities, and performance of the state board in administering Sections 1 through 9 of this Act shall be completed by the legislative research commission each three (3) years after the effective date of this Act. The review shall be transmitted in the same manner as provided in subsection (1)(b) of Section 5 of this Act.

HB 154, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.540 is amended to read as follows:

(1) An advisory council for medical assistance shall be established in the state government. The council shall consist of seventeen (17) members. The secretary for human resources shall be an ex officio member. The other sixteen (16) members of the council shall be appointed by the governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the governor at the time of their appointments. [~~The term of the first optometrist member shall begin July 1, 1970. The term of the first podiatrist member shall begin July 1, 1974. The term of the first home health care provider member shall begin July 1, 1978.~~] Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four (4) years and until his successor is appointed and qualified. Appointments shall be made one from each list of three (3) nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmacists Association; the Kentucky Association of *Health care Facilities or the Kentucky Association of Homes for the Aging, on a rotating basis* [~~Nursing Homes and Personal Care Homes~~]; the Kentucky *Nurses' Association* [~~State Association of Registered Nurses~~]; the State Board of Podiatry; the Kentucky Home Health Association; and the Kentucky Optometric Association. The other seven (7) appointive members *shall be health care advocates knowledgeable about health care and the health care industry, and shall represent recognized consumer advocacy groups whose membership includes medicaid recipients, low income persons, children and youth, older persons, women, minorities and disabled persons*[~~, one (1) of whom shall be a representative of the elderly, and three (3) of whom shall be recipients of medical assistance at the time of appointment, shall be intelligent and discreet citizens residing within the Commonwealth, who are not members of professional groups which are recipients of vendor payments. No nominee or member of the council shall be a stockholder or have any financial interest in any hospital, nursing home, or related institution~~].

(2) Each appointive member of the council shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

(5) No consumer member of the council shall have a fiduciary relationship or interest in any health care facility or service.

Section 2. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the cabinet for human resources undertakes to pay shall be designated and limited by regulations promulgated by said department, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, *advanced registered nurse practitioner,* or podiatrist;

(d) Physician, podiatric, *nursing* and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21).

(f) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the cabinet for human resources with respect to such bases for payment.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the cabinet for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

Section 3. KRS 205.590 is amended to read as follows:

(1) The following technical advisory committees shall be established for the purpose of acting in an advisory capacity to the council with respect to the administration of the medical assistance program and in performing the function of peer review:

(a) A technical advisory committee on physician services consisting of five (5) physicians appointed by the council of the Kentucky State Medical Association;

(b) A technical advisory committee on hospital care consisting of five (5) hospital administrators appointed by the board of trustees of the Kentucky Hospital Association;

(c) A technical advisory committee on dental care consisting of five (5) dentists appointed by the Kentucky Dental Association;

(d) A technical advisory committee on nursing service consisting of five (5) nurses appointed by the board of directors of the Kentucky State Association of Registered Nurses;

(e) A technical advisory committee on drugs consisting of five (5) pharmacists appointed by the Kentucky Pharmacists Association;

(f) A technical advisory committee on nursing home care consisting of five (5) members appointed by the Kentucky Association of Nursing Homes;

(g) A technical advisory committee on optometric care consisting of five (5) members appointed by the Kentucky Optometric Association;

(h) A technical advisory committee on podiatric care consisting of five (5) podiatrists appointed by the Kentucky Podiatry Association.

(i) A technical advisory committee on primary care consisting of five (5) primary care providers, two (2) of whom shall represent licensed health maintenance organizations, appointed by the governor, until such time as an association of primary care providers is established, whereafter the association shall appoint the members.

(j) A technical advisory committee on home health care consisting of five (5) members appointed by the board of directors of the Kentucky Home Health Association*;*

(k) A technical advisory committee on consumer rights and client needs consisting of five (5) members, with one (1) member to be appointed by each of the following organizations: the Kentucky Combined Committee on Aging, the Kentucky Legal Services Corporation, the Kentucky Association for Retarded Citizens, the Department of Public Advocacy, and the National Association of Social Workers-Kentucky Chapter.

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

[~~(4) Each technical advisory committee shall be empowered to act on behalf of the advisory council for medical assistance in those instances where the council has delegated such responsibility.~~]

The Committee Substitute to **HB 154** is as follows:

HB 154, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.540 is amended to read as follows:

(1) An advisory council for medical assistance shall be established in the state government. The council shall consist of seventeen (17) members. The secretary for human resources shall be an ex officio member. The other sixteen (16) members of the council shall be appointed by the governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the governor at the time of their appointments. [~~The term of the first optometrist member shall begin July 1, 1970. The term of the first podiatrist member shall begin July 1, 1974. The term of the first home health care provider member shall begin July 1, 1978.~~] Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four (4) years and until his successor is appointed and qualified. *Nine (9) of the* appointments shall be made one from each list of three (3) nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmacists Association; the Kentucky Association of *Health Care Facilities* [~~Nursing Homes and Personal Care Homes~~]; the Kentucky *Nurses' Association* [~~State Association~~

~~of Registered Nurses~~]; the State Board of Podiatry; the Kentucky Home Health Association; and the Kentucky Optometric Association. The other seven (7) appointive members *shall be health care advocates knowledgeable about health care and the health care industry, and shall include three (3) medical assistance recipients, one (1) representative of a recognized consumer advocacy group representing the elderly; and three (3) representatives of recognized consumer advocacy groups whose membership includes low income persons, children and youth, women, minorities and disabled persons*[~~, one (1) of whom shall be a representative of the elderly, and three (3) of whom shall be recipients of medical assistance at the time of appointment, shall be intelligent and discreet citizens residing within the Commonwealth, who are not members of professional groups which are recipients of vendor payments. No nominee or member of the council shall be a stockholder or have any financial interest in any hospital, nursing home, or related institution~~].

(2) Each appointive member of the council shall serve without compensation but *each council member not otherwise compensated for his time or expenses* shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

(5) No consumer member of the council shall have a fiduciary relationship or interest in any health care facility or service.

Section 2. KRS 205.590 is amended to read as follows:

(1) The following technical advisory committees shall be established for the purpose of acting in an advisory capacity to the council with respect to the administration of the medical assistance program and in performing the function of peer review:

(a) A technical advisory committee on physician services consisting of five (5) physicians appointed by the council of the Kentucky State Medical Association;

(b) A technical advisory committee on hospital care consisting of five (5) hospital administrators appointed by the board of trustees of the Kentucky Hospital Association;

(c) A technical advisory committee on dental care consisting of five (5) dentists appointed by the Kentucky Dental Association;

(d) A technical advisory committee on nursing service consisting of five (5) nurses appointed by the board of directors of the Kentucky State Association of Registered Nurses;

(e) A technical advisory committee on drugs consisting of five (5) pharmacists appointed by the Kentucky Pharmacists Association;

(f) A technical advisory committee on nursing home care consisting of five (5) members appointed by the Kentucky Association of *Health Care Facilities* [~~Nursing Homes~~];

(g) A technical advisory committee on optometric care consisting of five (5) members appointed by the Kentucky Optometric Association;

(h) A technical advisory committee on podiatric care consisting of five (5) podiatrists appointed by the Kentucky Podiatry Association.

(i) A technical advisory committee on primary care consisting of five (5) primary care providers, two (2) of whom shall represent licensed health maintenance organizations, appointed by the governor, until such time as an association of primary care providers is established, whereafter the association shall appoint the members.

(j) A technical advisory committee on home health care consisting of five (5) members appointed by the board of directors of the Kentucky Home Health Association*;*

(k) A technical advisory committee on consumer rights and client needs consisting of five (5) members, with one (1) member to be appointed by each of the following organizations: the Kentucky Combined Committee on Aging, the Kentucky Legal Services Corporation, the Kentucky Association for Retarded Citizens, the Department of Public Advocacy, and the National Association of Social Workers-Kentucky Chapter.

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

[~~(4) Each technical advisory committee shall be empowered to act on behalf of the advisory council for medical assistance in those instances where the council has delegated such responsibility.~~]

HB 203, AN ACT relating to the provision and funding of emergency medical services.

WHEREAS, the general assembly finds that emergency medical services is a vital health service and that a minimal essential level of quality services should be available to all the citizens of the Commonwealth.

Further, the provision of emergency medical services should be the joint responsibility of state and local government with due recognition given to the need for efficient ambulance services employing sound business practices and tapping diversified funding sources wherever possible. Therefore, it is the purpose of this chapter to provide for the establishment of a state funding program providing incentives for local and volunteer efforts, encouraging cooperative efforts among ambulance providers, and providing for licensure and regulation to ensure high quality emergency medical services throughout the Commonwealth.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Ambulance" means any vehicles, including a helicopter or fixed wing aircraft, which are specially designed, constructed or that have been modified or equipped with the intent of using the same, for the purpose of transporting on an emergency and urgent basis any individual who is sick, injured, or otherwise incapacitated.

(2) "Advanced life support" means the expansion of a basic life support system to include paramedics and other personnel under medical control.

(3) "Ambulance service" means any service organized, budgeted and operated to provide emergency care and transportation services for individuals who are sick, injured or incapacitated.

(4) "Basic life support" means any ambulance service providing emergency care and transportation services utilizing emergency medical technician level personnel.

(5) "Cabinet" means the cabinet for human resources, emergency medical services branch.

(6) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury including but not limited to basic and advanced life support ambulance service, trained personnel, hospital emergency rooms, critical care facilities and referral centers, communications, mutual aid agreements, protocols and transfer agreements, administration, planning and other components of a broad life saving system.

(7) "Emergency medical services applicant" means a county fiscal court, city government, an intra-county or multi-county cooperative, a regional emergency medical services system, or ambulance tax district board created pursuant to KRS Chapter 108, which operates or contracts for the operation of emergency medical services pursuant to KRS Chapter 65, or is otherwise responsible for emergency medical services within its jurisdiction.

(8) "Emergency medical services plan" means a plan prepared and adopted by the cabinet for human resources which describes vehicle equipment and personnel needs and requirements for basic and advanced life support, the coordination, regionalization, funding and third party reimbursement of emergency medical services, the training of EMS personnel, and other projects and programs which may be of benefit to emergency medical services in the Commonwealth.

(9) "Institute for trauma care" means the nonprofit, cooperative organization of trauma care providers and consumers established under this chapter.

(10) "Intra-county or multi-county EMS cooperative applicant" means a cooperative of local EMS applicants applying for level II funds and which have joined together for the further purposes of improved planning and coordination of services, reduction of management and administrative costs, and documented economies of scale.

(11) "Kentucky emergency medical services advisory council" means the body established under this Act to advise the cabinet for human resources, emergency medical services branch, on matters related to the planning and funding of emergency medical services, and on the training of emergency medical services personnel.

(12) "Kentucky emergency medical services graduated foundation program" means the funding program administered by the cabinet for human resources, emergency medical services branch, providing for a minimal essential level of services; and after those funding needs have been met fostering greater efficiency, sound business practices, and diversification of funding, and intra-county and multi-county cooperatives where appropriate; encouraging development, expansion and improvement of regional EMS systems and implementation of system components, and which is based on a system of incentives and rewards.

(13) "Local EMS applicant" means a county fiscal court or city government, which operates or contracts for the operation of ambulance service, an ambulance tax district board created pursuant to KRS Chapter 108, or an authority created pursuant to KRS Chapter 65.

(14) "Minimal essential level" means that level of basic life support ambulance service needed by the citizens of the Commonwealth, which insures the availability of basic life support ambulance service within a thirty (30) minute response time to ninety percent (90%) of the population of the service area, and guarantees ambulance service which meet licensure standards established in KRS Chapter 216B and administrative regulations promulgated under KRS Chapter 216B, and meets other planning criteria as defined in administrative regulation by the cabinet for human resources.

(15) "Non emergency health transportation" means health care transportation provided on a pre-scheduled basis to individuals whose impaired health condition requires special transportation, supervision or handling; but who do not require medical treatment during transit or emergency medical treatment upon arrival at the final destination.

(16) "Regional EMS system applicant" means a cooperative organization of local EMS applicants, intra-county or multi-county cooperatives, hospitals and other emergency medical services providers applying for level III funds and who have formed for the further purpose of planning and coordinating regional EMS system development and implementation.

(17) "Regional trauma facility" means a health facility meeting standards established by the institute for trauma care and designated by the cabinet for human resources as capable of providing regional trauma care for one (1) or more types of trauma.

(18) "Trauma referral center" means trauma services within major hospitals meeting level I standards for a regional trauma center as established by the American college of surgeons and the institute for trauma care, and designated by the cabinet for human resources as capable of providing comprehensive trauma care.

(19) "Secretary" means the secretary for human resources.

(20) "Volunteer ambulance service" means ambulance services staffed at least ninety percent (90%) by individuals who receive no compensation or remuneration for their services, whether or not the service charges or bills patients for their services.

(21) "Volunteer county" means a county in which fifty percent (50%) or more of the population is served by volunteer ambulance services, or fifty percent (50%) or more of the emergency ambulance service runs are made by volunteer ambulance services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky emergency medical services advisory council.

(2) The council shall be composed of no more than fifteen (15) members appointed for two (2) year terms by the secretary for human resources. The members shall be broadly representative of the public and professional interest groups and individuals concerned with emergency medical services. Members shall be comprised of the following: two (2) county judges/executive, one (1) mayor, one (1) magistrate; and at least one (1) member each representing the following: paid ambulance services, volunteer ambulance services, emergency medical technicians, paramedics, emergency physicians, emergency nurses, hospital emergency room administrators, health care insurers, health care consumers and others with an interest in emergency medical services. The institute for trauma care shall appoint one (1) of its members to serve on the council in an ex officio capacity.

(3) The council shall advise the cabinet for human resources, emergency medical services branch, on the need for ambulances and ambulance service, federal and state funding for training programs for emergency medical services personnel, the regionalization of emergency medical services, the administration of the Kentucky emergency medical services graduated foundation program, and on other matters affecting the provision and quality of emergency medical services in the Commonwealth.

(4) The council shall review the emergency medical services plan and shall appoint such technical advisory committees as are necessary to assist in its implementation.

(5) The council shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources.

(6) A majority of members shall constitute a quorum.

(7) Each member of the council shall serve without compensation but shall be entitled to reimbursement for expenses made in accordance with state regulations relating to travel reimbursement.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources shall maintain a program for the planning, development, improvement, and expansion of emergency medical services throughout the state. This program shall include but not be limited to:

(1) Administration of the Kentucky emergency medical services graduated foundation program to fund, provide technical assistance for and otherwise assist counties, local emergency medical services applicants, intra-county and multi-county cooperative applicants, and regional emergency medical services systems applicants in accordance with Section 4 of this Act.

(2) Designation of intra-county and multi-county cooperatives and regional emergency medical

systems, to be made by administrative order of the secretary after consultation with local officials. Designation shall be based upon applications submitted pursuant to guidelines and criteria established by the cabinet in administrative regulations.

(3) Designation of regional trauma facilities and trauma referral centers upon the recommendation of the institute for trauma care, to be made by administrative order of the secretary.

(4) Provision of technical assistance to emergency medical services applicants or potential applicants, and others in planning for the development, coordination and monitoring of emergency medical services.

(5) Issuance of a format for applications for funding under the Kentucky emergency medical services graduated foundation program including but not limited to a justification of the need for such services and a proposed budget. Budgets of applicants shall be reviewed and approved by the cabinet for human resources for accuracy, validity and reasonableness of proposed expenditures prior to the receipt of state funding.

(6) Preparation and adoption of an emergency medical services plan to be published as of the effective date of this Act and used in administration of the Kentucky emergency medical services graduated foundation program, in the allocation of federal and state funds, in the administration of training programs for emergency medical services personnel and the development of other such projects and programs which may be of benefit to emergency medical services in the Commonwealth.

(7) Liaison with public and private agencies responsible for emergency medical services and training programs for emergency medical services personnel.

(8) Development, monitoring, operation, and encouragement of such other projects and programs which may be of benefit to emergency medical services in the Commonwealth.

(9) Promulgation of administrative regulations further defining minimal essential level of services and such other matters as may be necessary to implement the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky emergency medical services graduated foundation program is hereby created for the purpose of assisting emergency medical services applicants, and to enable the cabinet for human resources to carry out its responsibilities in administration of the emergency medical services program.

(2) The cabinet for human resources shall develop funding criteria for implementation of the Kentucky emergency medical services graduated foundation program to be promulgated in administrative regulations, providing for a system of incentives and rewards for improving emergency medical services based on the following requirements:

(a) A minimal essential level of services shall be available to all citizens of the Commonwealth;

(b) Local efforts to employ sound business practices in the operation of emergency medical services, to coordinate services with surrounding geographic areas, to develop diversified funding sources, and to move toward self sufficiency shall be rewarded in the allocation of state funds.

(3) Applicants shall be categorized as participating in the Kentucky emergency medical services graduated foundation program at level I, level II or level III participation and shall be eligible for specific types of funding as follows:

(a) Local emergency medical services applicants are classified as level I applicants and shall agree to maintain the following conditions for funding:

1. Adoption of a minimal essential level of services;

2. Maintain sound business practices and procedures in the operation of ambulance service including budgeting, accounting, reasonable charges for services rendered and collection rates of at least seventy percent (70%) of reasonable charges billed;

3. Local applicants applying for funding under the program shall contribute a minimum five percent (5%) of their combined local government general fund budgets to the provision of emergency medical services. Revenues generated through local taxing districts in excess of the approved ambulance service budget may be counted toward the minimum five percent (5%) local contribution. Charges for services rendered shall not be counted to offset the five percent (5%) local contribution;

4. Compliance with minimum standards of quality required by Section 9 of this Act;

5. Documented adherence to all state administrative conditions for funding;

(b) In return for meeting the enumerated conditions for funding, the Kentucky emergency medical services graduated foundation program may provide funding up to fifty percent (50%) of the amount of the local emergency medical services applicant's deficit after all available revenues have been applied to the approved operating budget, may authorize purchases from price contracts negotiated by the state, provide for appropriate training programs, and supply planning data;

(c) State funds distributed through the Kentucky emergency medical services graduated foundation program to local emergency medical services applicants shall be matched on a fifty percent (50%) state and fifty percent (50%) local matching basis up to the amount of the deficit. When revenues generated through subscription services, local taxing districts and documented local ambulance contributions create an excess over the applicant's ambulance service budget, the five percent (5%) local contribution may be reduced up to the amount of the excess. This section shall not be construed to require the expenditure of state funds beyond

that amount appropriated by the general assembly for the funding of this program;

(d) Local emergency medical services applicants shall not be excluded from applying for level I funding by virtue of joining intra-county or multi-county cooperatives or a regional emergency medical services system;

(e) Intra-county or multi-county emergency medical services cooperative applicants are classified as level II applicants and shall agree to maintain level I requirements among their members. In return, the Kentucky emergency medical services graduated foundation program may provide for technical assistance for cooperatives, appropriate training programs and provide funding for the purchase, replacement or maintenance of communication or dispatch equipment necessary for coordination within the intra-county or multi-county area. All state funds distributed through the Kentucky emergency medical services graduated foundation program to level II applicants shall be provided on a fifty percent (50%) state and fifty percent (50%) local matching basis. This section shall not be construed to require the expenditure of state funds beyond that amount appropriated by the general assembly for the funding program;

(f) Regional emergency medical services applicants are classified as level III applicants and shall submit plans which contain assurances that participating members will maintain level I or level II requirements as appropriate, and such other assurances as required by the cabinet for human resources. In return, the Kentucky emergency medical services graduated foundation program may provide appropriate emergency medical services training programs, and technical assistance for the development and implementation of patient care protocols and critical care transfer agreements and other EMS system components as defined in the emergency medical services plan or administrative regulations promulgated by the cabinet. Under no circumstances shall state funding be provided directly or indirectly for administration of regional emergency medical services systems. All state funds distributed through the Kentucky emergency medical services graduated foundation program to level III applicants shall be provided on a fifty percent (50%) state and fifty percent (50%) local matching basis. This section shall not be construed to require the expenditure of state funds beyond that amount appropriated by the general assembly for the funding program;

(4) The Kentucky emergency medical services graduated foundation program shall establish a special funding program for volunteer ambulance services and volunteer counties.

(a) Applicants requesting funding under this program shall be local emergency medical services applicants, shall adopt a minimal essential level of services provided for by this Act, shall agree to employ standard business practices and procedures, shall comply with minimum standards established by Section 9 of this Act and shall document adherence to all state administrative conditions of funding;

(b) In return, the Kentucky emergency medical services graduated foundation program shall waive the required five percent (5%) minimum local contribution and shall provide funding up to fifty percent (50%) of the volunteer county's or volunteer services' deficit after all available revenues have been applied to the approved operating budget;

(c) State funds distributed through the special volunteer funding program shall be matched at a fifty percent (50%) state and fifty percent (50%) local matching basis up to the amount of the deficit. This section shall not be construed to require the expenditure of state funds beyond that amount appropriated by the general assembly for the funding program;

(d) Applicants for eligibility under the volunteer program shall apply to the cabinet for human resources for designation as volunteer counties.

(5) Applicants for state funding under the Kentucky emergency medical services graduated foundation program shall submit applications containing a justification of the need for services in the geographic service area, a detailed budget to be validated and approved by the cabinet for human resources, and other such information as may be required by the cabinet for human resources.

(6) Funding under the Kentucky emergency medical services graduated foundation program shall be subject to the availability of state funds and adjusted by the cabinet accordingly.

(7) State funds for ambulance service under the Kentucky emergency medical services graduated foundation program shall be expended only in areas where there is a documented need for ambulance service as defined by the emergency medical services plan. Non-conforming ambulance services shall not be eligible to receive funding unless the funding shall result in attainment of conforming status by July 15, 1985.

(8) Non-emergency health transportation services may be provided by emergency medical services applicants under the Kentucky emergency medical services graduated foundation program; however, the additional vehicle, personnel, administrative and operating costs associated with the provision of non-emergency health transportation services shall not be counted in computing a deficit in the applicant's budget.

(9) State funding under this Act may be carried over into the next fiscal year and allocated to level I, level II or level III applicants as appropriate. No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded.

(10) This section shall expire on July 15, 1986.

Section 5. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes[~~, ambulance services, or non-emergency health transportation services~~].

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts.

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists and other practitioners of the healing arts, provided that no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility.

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employes, provided that such facility does not contain inpatient or resident beds for patients or employes who generally remain in the facility for more than twenty-four (24) hours.

(d) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States veterans administration for boarding services.

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination.

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

Section 6. KRS 211.962 is amended to read as follows:

No person shall:

(1) Hold himself out as certified pursuant to KRS 211.962 to 211.968 nor use the initials "EMT" *or "EMT-I"* when he does not hold a current valid certification issued pursuant to KRS 211.962 to 211.968; or

(2) If certified, violate any provision of KRS 211.962 to 211.968 or any rule or regulation, adopted by the cabinet for human resources relating to KRS 211.964.

Section 7. KRS 211.964 is amended to read as follows:

The cabinet for human resources shall adopt rules and regulations relating to emergency medical technicians *and intermediate level emergency medical technicians*. The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, *intermediate level emergency medical technicians*, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

SECTION 8. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky institute for trauma care is hereby established. The institute shall consist of seven (7) members appointed by the governor for four (4) year terms, except that the first appointment shall be made as follows: two (2) members appointed for two (2) year terms, three (3) members appointed for three (3) year terms, and two (2) members appointed for four (4) year terms. In the event of a vacancy, the person appointed shall serve only for the remaining portion of the vacated terms. All members shall serve until such time as their successors are qualified and appointed.

(2) The members of the institute shall be appointed by the governor and shall include the following:

(a) Two (2) surgeons with knowledge and expertise in trauma care and the trauma care systems;

(b) One (1) representative of the Kentucky emergency medical services advisory council;

(c) One (1) representative of industry;

(d) One (1) representative of emergency medical services personnel other than physicians; and

(e) Two (2) health care consumers knowledgeable about emergency medical services.

(3) The functions of the institute shall be as follows:

(a) To assist in the verification of the trauma capabilities of Kentucky hospitals;

(b) To recommend to the cabinet for human resources, emergency medical services branch, levels of designation of trauma referral centers and regional trauma facilities at levels I, II or III using standards developed by the American college of surgeons and other such standards as the institute deems appropriate;

(c) To facilitate a network of trauma referral centers and regional trauma facilities through which the cooperative transfer of patients from one (1) facility to another can be effectuated;

(d) To maintain quality assurance programs through ongoing monitoring of all phases of emergency care and major trauma outcome studies to identify problem areas within the trauma care system;

(e) To coordinate and provide for continuing education programs for medical and emergency medical services staff in the area of trauma care;

(f) To provide a clearinghouse for exchange of information among emergency medical services and trauma care providers within the Commonwealth, and to coordinate research efforts in the area of trauma

care;

(g) To provide technical assistance to emergency medical services applicants, facilities and ambulance services and other organizations in the development, planning, coordination and monitoring of emergency medical services and trauma services; and

(h) To review and comment on the emergency medical services plan to be prepared and adopted by the cabinet for human resources.

(4) Each member of the council shall serve without remuneration or compensation but shall be entitled to reimbursement for expenses made in accordance with state regulations relating to travel reimbursement.

(5) The institute shall meet at least quarterly and on other occasions as may be necessary, on call of the chairman.

(6) Four (4) members of the institute shall constitute a quorum for doing business.

(7) The institute shall employ staff to perform their duties under this section, not to exceed one (1) executive director, one (1) research analyst and one (1) secretary. Any operating expenses shall be paid through funds appropriated under this section.

(8) The cabinet for human resources shall obligate funds to the institute for trauma care in that amount appropriated under this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) All emergency care ambulance services licensed as of the effective date and in accordance with the provisions of this Act shall attain full compliance with conforming licensure standards as established by administration regulation by July 15, 1985.

(2) Failure to attain designation as a conforming service shall result in revocation of the license of the nonconforming emergency care ambulance service by the Kentucky health facilities and health services certificate of need and licensure board effective July 15, 1985.

(3) Licenses issued as of the effective date of this Act shall be issued only to ambulance services which comply fully with the requirements of this section.

(4) Licenses shall not be issued to non-emergency health transportation services in services areas where the minimal essential level of ambulance services is adequately met by existing licensed emergency care ambulance services as defined in this Act and in the emergency medical services plan.

(5) As of July 15, 1985 all licensed ambulance services shall meet the following standards:

(a) All vehicles used in the provision of emergency care ambulance services shall be designed to provide adequately for the care and transportation of patients and shall comply fully with vehicle design criteria contained in the KKK specifications in effect at the time the vehicle is manufactured, except vehicles in service or licensed prior to the effective date of this section which do not comply with KKK specifications may be granted a waiver of vehicle design requirements by the board until such time as the vehicle changes ownership or is replaced;

(b) Ambulance services shall provide emergency service on a twenty-four (24) hour basis. This provision may be met through an adequate call system or a mutual aid agreement with another licensed ambulance service;

(c) Each emergency ambulance service shall be staffed to provide at least one (1) driver and one (1) attendant for each run. The attendant shall remain with the patient at all times during transport;

(d) One (1) attendant on each emergency care ambulance run shall be certified as an emergency medical technician-ambulance (EMT-A) by the cabinet for human resources, or shall be a physician or registered nurse;

(e) Either the driver or a second attendant on each emergency care ambulance run shall have certification for one (1) of the following levels within six (6) months after employment:

1. EMT-A certification,

2. Medical corpsman training within the last five (5) years, or

3. Red cross advanced, red cross standard first aid and personal safety, or red cross advanced first aid and emergency care certification with supplemental CPR instruction;

(f) All ambulance services are required to keep adequate reports and records to be maintained at the ambulance base headquarters, and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

1. Two (2) copies of the Kentucky emergency medical service ambulance run report form, one (1) copy to be kept in the files of the ambulance service and one (1) copy to be submitted to the hospital to which the patient is transported;

2. Employe records, including a resume of each employe's training and experience and evidence of current certification;

3. Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty;

(g) Ambulance services shall comply with any additional equipment standards consistent with this

section promulgated by the cabinet for human resources in administrative regulations.

Section 10. KRS 431.105 is amended to read as follows:

Notwithstanding any other statutory provisions to the contrary, all fines and forfeitures recovered in any court as a result of a conviction for the violation of any of the provisions of KRS 189.221, subsection (1) of 189.222 or 189.270, which violation occurred on a state-maintained highway and arrest was made by any peace officer other than a member of the bureau of state police, bureau of highways or bureau of vehicle regulation, shall inure to the benefit of the state, shall be paid to the state treasurer for the use and benefit of the bureau of highways, and no part shall be returned to the local governmental units from which they were sent. These fines and forfeitures shall be paid into the state treasury by the court collecting same and within thirty (30) days after imposition and collection. *The state shall receive ten dollars ($10) from each fine collected for each violation of KRS Chapter 189, which shall be placed in the state treasury and used solely for the purposes of Sections 2 through 4 and Sections 6 through 8 of this Act.*

Section 11. The following KRS sections are repealed:
211.950 Definitions.
211.952 Emergency medical services program.
211.954 Matching fund program for local purchase of ambulances and equipment.
211.956 Matching fund program for providing trained emergency medical service personnel.
211.958 Application to areas having volunteer ambulance services.

The Committee Substitute to **HB 203** is as follows:

HB 203, AN ACT relating to the provision and funding of emergency medical services.

WHEREAS, the general assembly finds that emergency medical services is a vital health service and that a minimal essential level of quality services should be available to all the citizens of the Commonwealth.

Further, the provision of emergency medical services should be the joint responsibility of state and local government with due recognition given to the need for efficient ambulance services employing sound business practices and tapping diversified funding sources wherever possible. Therefore, it is the purpose of this chapter to provide for the establishment of a state funding program providing incentives for local and volunteer efforts, encouraging cooperative efforts among ambulance providers, and providing for licensure and regulation to ensure high quality emergency medical services throughout the Commonwealth.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Ambulance" means any vehicles, including a helicopter or fixed wing aircraft, which are specially designed, constructed or that have been modified or equipped with the intent of using the same, for the purpose of transporting on an emergency and urgent basis any individual who is sick, injured, or otherwise incapacitated.

(2) "Advanced life support" means the expansion of a basic life support system to include paramedics and other personnel under medical control.

(3) "Ambulance service" means any service organized, budgeted and operated to provide emergency care and transportation services for individuals who are sick, injured or incapacitated.

(4) "Basic life support" means any ambulance service providing emergency care and transportation services utilizing emergency medical technician level personnel.

(5) "Cabinet" means the cabinet for human resources, emergency medical services branch.

(6) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury including but not limited to basic and advanced life support ambulance service, trained personnel, hospital emergency rooms, critical care facilities and referral centers, communications, mutual aid agreements, protocols and transfer agreements, administration, planning and other components of a broad life saving system.

(7) "Emergency medical services applicant" means a county fiscal court, city government, an intra-county or multi-county cooperative, a regional emergency medical services system, or ambulance tax district board created pursuant to KRS Chapter 108, which operates or contracts for the operation of emergency medical services pursuant to KRS Chapter 65, or is otherwise responsible for emergency medical services within its jurisdiction.

(8) "Emergency medical services plan" means a plan prepared and adopted by the cabinet for human

resources which describes vehicle equipment and personnel needs and requirements for basic and advanced life support, the coordination, regionalization, funding and third party reimbursement of emergency medical services, the training of EMS personnel, and other projects and programs which may be of benefit to emergency medical services in the Commonwealth.

(9) "Institute for trauma care" means the nonprofit, cooperative organization of trauma care providers and consumers established under this chapter.

(10) "Intra-county or multi-county EMS cooperative applicant" means a cooperative of local EMS applicants applying for level II funds and which have joined together for the further purposes of improved planning and coordination of services, reduction of management and administrative costs, and documented economies of scale.

(11) "Kentucky emergency medical services graduated foundation program" means the funding program administered by the cabinet for human resources, emergency medical services branch, providing for a minimal essential level of services; and after those funding needs have been met fostering greater efficiency, sound business practices, and diversification of funding, and intra-county and multi-county cooperatives where appropriate; encouraging development, expansion and improvement of regional EMS systems and implementation of system components, and which is based on a system of incentives and rewards.

(12) "Local EMS applicant" means a county fiscal court or city government, which operates or contracts for the operation of ambulance service, an ambulance tax district board created pursuant to KRS Chapter 108, or an authority created pursuant to KRS Chapter 65.

(13) "Minimal essential level" means that level of basic life support ambulance service needed by the citizens of the Commonwealth, which insures the availability of basic life support ambulance service within a thirty (30) minute response time to ninety percent (90%) of the population of the service area, and guarantees ambulance services which meet licensure standards established in KRS Chapter 216B and administrative regulations promulgated under KRS Chapter 216B, and meets other planning criteria as defined in administrative regulation by the cabinet for human resources.

(14) "Non-emergency health transportation" means health care transportation provided on a pre-scheduled basis to individuals whose impaired health condition requires special transportation, supervision or handling; but who do not require medical treatment during transit or emergency medical treatment upon arrival at the final destination.

(15) "Regional EMS system applicant" means a cooperative organization of local EMS applicants, intra-county or multi-county cooperatives, hospitals and other emergency medical services providers applying for level III funds and who have formed for the further purpose of planning and coordinating regional EMS system development and implementation.

(16) "Regional trauma facility" means a health facility meeting standards established by the institute for trauma care and designated by the cabinet for human resources as capable of providing regional trauma care for one (1) or more types of trauma.

(17) "Trauma referral center" means trauma services within major hospitals meeting level I standards for a regional trauma center as established by the American college of surgeons and the institute for trauma care, and designated by the cabinet for human resources as capable of providing comprehensive trauma care.

(18) "Secretary" means the secretary for human resources.

(19) "Volunteer ambulance service" means ambulance services staffed at least ninety percent (90%) by individuals who receive no compensation or remuneration for their services, whether or not the service charges or bills patients for their services.

(20) "Volunteer county" means a county in which fifty percent (50%) or more of the population is served by volunteer ambulance services, or fifty percent (50%) or more of the emergency ambulance service runs are made by volunteer ambulance services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources shall maintain a program for the planning, development, improvement, and expansion of emergency medical services throughout the state. This program shall include but not be limited to:

(1) Administration of the Kentucky emergency medical services graduated foundation program to fund, provide technical assistance for and otherwise assist counties, local emergency medical services applicants, intra-county and multi-county cooperative applicants, and regional emergency medical services systems applicants in accordance with Section 3 of this Act.

(2) Designation of intra-county and multi-county cooperatives and regional emergency medical systems, to be made by administrative order of the secretary after consultation with local officials. Designation shall be based upon applications submitted pursuant to guidelines and criteria established by the cabinet in administrative regulations.

(3) Designation of regional trauma facilities and trauma referral centers upon the recommendation of the institute for trauma care, to be made by administrative order of the secretary.

(4) Provision of technical assistance to emergency medical services applicants or potential applicants, and others in planning for the development, coordination and monitoring of emergency medical services.

(5) Issuance of a format for applications for funding under the Kentucky emergency medical services graduated foundation program including but not limited to a justification of the need for such services and a proposed budget. Budgets of applicants shall be reviewed and approved by the cabinet for human resources for accuracy, validity and reasonableness of proposed expenditures prior to the receipt of state funding.

(6) Preparation and adoption of an emergency medical services plan to be published as of the effective date of this Act and used in administration of the Kentucky emergency medical services graduated foundation program, in the allocation of federal and state funds, in the administration of training programs for emergency medical services personnel and the development of other such projects and programs which may be of benefit to emergency medical services in the Commonwealth. Data necessary to substantiate the need for ambulance services shall be submitted in accordance with administrative regulations promulgated by the cabinet for human resources. Appropriate sections of the emergency medical services plan shall be presented to the state health planning council for their consideration as a component of the state health plan.

(7) Liaison with public and private agencies responsible for emergency medical services and training programs for emergency medical services personnel.

(8) Development, monitoring, operation, and encouragement of such other projects and programs which may be of benefit to emergency medical services in the Commonwealth.

(9) Promulgation of administrative regulations further defining minimal essential level of services and relating to such other matters as may be necessary to implement the provisions of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky emergency medical services graduated foundation program is hereby created for the purpose of assisting emergency medical services applicants, and to enable the cabinet for human resources to carry out its responsibilities in administration of the emergency medical services program.

(2) The cabinet for human resources shall develop funding criteria for implementation of the Kentucky emergency medical services graduated foundation program to be promulgated in administrative regulations, providing for a system of incentives and rewards for improving emergency medical services based on the following requirements:

(a) A minimal essential level of services shall be available to all citizens of the Commonwealth;

(b) Local efforts to employ sound business practices in the operation of emergency medical services, to coordinate services with surrounding geographic areas, to develop diversified funding sources, and to move toward self sufficiency shall be rewarded in the allocation of state funds.

(3) Applicants shall be categorized as participating in the Kentucky emergency medical services graduated foundation program at level I, level II or level III participation and shall be eligible for specific types of funding as follows:

(a) Local emergency medical services applicants are classified as level I applicants and shall agree to maintain the following conditions for funding:

1. Adoption of a minimal essential level of services;

2. Maintenance of sound business practices and procedures in the operation of ambulance service including budgeting, accounting, reasonable charges for services rendered and collection rates of at least seventy percent (70%) of reasonable charges billed. Medicare and medicaid payments paid in full shall be considered to be one hundred percent (100%) payment for the purposes of computing the collection rate under this provision;

3. Local applicants applying for funding under this program shall contribute a minimum five percent (5%) of their local government general fund budgets to the provision of emergency medical services. Revenues generated through local taxing districts may be counted toward the minimum five percent (5%) local contribution. Charges for services rendered shall not be counted to offset the five percent (5%) local contribution;

4. Compliance with minimum standards of quality required by Section 8 of this Act;

5. Documented adherence to all state administrative conditions for funding;

(b) In return for meeting the enumerated conditions for funding, the Kentucky emergency medical services graduated foundation program may provide funding up to the amount of the local emergency medical services applicant's deficit after all available revenues have been applied to the approved operating budget, may authorize purchases from price contracts negotiated by the state, provide for appropriate training programs, and supply planning data;

(c) State funds distributed through the Kentucky emergency medical services graduated foundation program to local emergency medical services applicants shall be matched on a fifty percent (50%) state and fifty percent (50%) local matching basis up to the amount of the deficit. Revenues generated from subscription services, documented local contributions, and the excess of local general fund contributions and local taxing district revenues beyond the minimum five percent (5%) requirement may be counted toward the fifty percent (50%) local match. Charges for services rendered shall not be counted toward the fifty percent

(50%) local match. This section shall not be construed to require the expenditure of state funds beyond that amount appropriated by the general assembly for the funding of this program;

(d) Local emergency medical services applicants shall not be excluded from applying for level I funding by virtue of joining intra-county or multi-county cooperatives or a regional emergency medical services system;

(e) Intra-county or multi-county emergency medical services cooperative applicants are classified as level II applicants and shall agree to maintain level I requirements among their members. In return, the Kentucky emergency medical services graduated foundation program may provide for technical assistance for cooperatives, appropriate training programs and provide funding for the purchase, replacement or maintenance of communication or dispatch equipment necessary for coordination within the intra-county or multi-county area. All state funds distributed through the Kentucky emergency medical services graduated foundation program to level II applicants shall be provided on a fifty percent (50%) state and fifty percent (50%) local matching basis. This section shall not be construed to require the expenditure of state funds beyond that amount appropriated by the general assembly for the funding program;

(f) Regional emergency medical services applicants are classified as level III applicants and shall submit plans which contain assurances that participating members will maintain level I or level II requirements as appropriate, and such other assurances as required by the cabinet for human resources. In return, the Kentucky emergency medical services graduated foundation program may provide appropriate emergency medical services training programs, and technical assistance for the development and implementation of patient care protocols and critical care transfer agreements and other EMS system components as defined in the emergency medical services plan or administrative regulations promulgated by the cabinet. Under no circumstances shall state funding be provided directly or indirectly for administration of regional emergency medical services systems. All state funds distributed through the Kentucky emergency medical services graduated foundation program to level III applicants shall be provided on a fifty percent (50%) state and fifty percent (50%) local matching basis. This section shall not be construed to require the expenditure of state funds beyond that amount appropriated by the general assembly for the funding program;

(4) The Kentucky emergency medical services graduated foundation program shall establish a special funding program for volunteer ambulance services and volunteer counties.

(a) Applicants requesting funding under the volunteer program shall be local emergency medical services applicants, shall adopt a minimal essential level of services provided for by this Act, shall agree to employ standard business practices and procedures, shall comply with minimum standards of quality established by Section 8 of this Act and shall document adherence to all state administrative conditions of funding;

(b) In return, the Kentucky emergency medical services graduated foundation program shall waive the required five percent (5%) minimum local government general fund budget contribution and shall provide funding up to the amount of the volunteer county's or volunteer services' deficit after all available revenues have been applied to the approved operating budget;

(c) State funds distributed through the special volunteer funding program shall be matched at a fifty percent (50%) state and fifty percent (50%) local matching basis up to the amount of the deficit. Revenues generated from subscription services, local general fund contributions, revenues from local taxing districts, and documented local contributions may be counted toward the fifty percent (50%) local match. Charges for services rendered shall not be counted toward the fifty percent (50%) local match. This section shall not be construed to require the expenditure of state funds beyond that amount appropriated by the general assembly for the funding program;

(d) Applicants for eligibility under the volunteer program shall apply to the cabinet for human resources for designation as volunteer counties.

(5) Applicants for state funding under the Kentucky emergency medical services graduated foundation program shall submit applications containing a justification of the need for services in the geographic service area, a detailed budget to be validated and approved by the cabinet for human resources, and other such information as may be required by the cabinet for human resources.

(6) Funding under the Kentucky emergency medical services graduated foundation program shall be subject to the availability of state funds and adjusted by the cabinet accordingly.

(7) State funds for ambulance service under the Kentucky emergency medical services graduated foundation program shall be expended only in areas where there is a documented need for ambulance service as defined by the emergency medical services plan. Non-conforming ambulance services in areas where adequate conforming services exist shall not be eligible to receive funding. In areas where adequate conforming services do not exist, funding shall be available only for the purpose of attaining conforming ambulance services.

(8) Non-emergency health transportation services may be provided by emergency medical services applicants under the Kentucky emergency medical services graduated foundation program; however, the additional vehicle, personnel, administrative and operating costs associated with the provision of

non-emergency health transportation services shall not be counted in computing a deficit in the applicant's budget.

(9) State funding under this Act may be carried over into the next fiscal year and allocated to level I, level II or level III applicants as appropriate. No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded.

Section 4. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to family care homes[~~, ambulance services, or non-emergency health transportation services~~].

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts.

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists and other practitioners of the healing arts, provided that no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility.

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employes, provided that such facility does not contain inpatient or resident beds for patients or employes who generally remain in the facility for more than twenty-four (24) hours.

(d) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States veterans administration for boarding services.

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination.

(f) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

Section 5. KRS 211.962 is amended to read as follows:

No person shall:

(1) Hold himself out as certified pursuant to KRS 211.962 to 211.968 nor use the initials “EMT” *or “EMT-I”* when he does not hold a current valid certification issued pursuant to KRS 211.962 to 211.968; or

(2) If certified, violate any provision of KRS 211.962 to 211.968 or any rule or regulation, adopted by the cabinet for human resources relating to KRS 211.964.

Section 6. KRS 211.964 is amended to read as follows:

The cabinet for human resources shall adopt rules and regulations relating to emergency medical technicians *and intermediate level emergency medical technicians.* The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, *intermediate level emergency medical technicians,* instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

SECTION 7. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky institute for trauma care is hereby established. The institute shall consist of seven (7) members appointed by the governor for four (4) year terms, except that the first appointment shall be made as follows: two (2) members appointed for two (2) year terms, three (3) members appointed for three (3) year terms, and two (2) members appointed for four (4) year terms. In the event of a vacancy, the person appointed shall serve only for the remaining portion of the vacated terms. All members shall serve until such time as their successors are qualified and appointed.

(2) The members of the institute shall be appointed by the governor and shall include the following:

(a) Two (2) surgeons with knowledge and expertise in trauma care and the trauma care systems;

(b) One (1) representative of the cabinet for human resources;

(c) One (1) representative of industry;

(d) One (1) representative of emergency medical services personnel other than physicians; and

(e) Two (2) health care consumers knowledgeable about emergency medical services.

(3) The functions of the institute shall be as follows:

(a) To assist in the verification of the trauma capabilities of Kentucky hospitals;

(b) To recommend to the cabinet for human resources, emergency medical services branch, levels of designation of trauma referral centers and regional trauma facilities at levels I, II or III using standards developed by the American college of surgeons and other such standards as the institute deems appropriate;

(c) To facilitate a network of trauma referral centers and regional trauma facilities through which the cooperative transfer of patients from one (1) facility to another can be effectuated;

(d) To maintain quality assurance programs through ongoing monitoring of all phases of emergency care and major trauma outcome studies to identify problem areas within the trauma care system;

(e) To coordinate and provide for continuing education programs for medical and emergency medical services staff in the area of trauma care;

(f) To provide a clearinghouse for exchange of information among emergency medical services and trauma care providers within the Commonwealth, and to coordinate research efforts in the area of trauma care;

(g) To provide technical assistance to emergency medical services applicants, facilities and ambulance services and other organizations in the development, planning, coordination and monitoring of emergency medical services and trauma services; and

(h) To review and comment on the emergency medical services plan to be prepared and adopted by the cabinet for human resources.

(4) Each member of the council shall serve without remuneration or compensation but those members not otherwise compensated for their time and expenses shall be entitled to reimbursement for expenses made in accordance with state regulations relating to travel reimbursement.

(5) The institute shall meet at least quarterly and on other occasions as may be necessary, on call of the chairman.

(6) Four (4) members of the institute shall constitute a quorum for doing business.

(7) The institute shall employ staff to perform their duties under this section, not to exceed one (1) executive director, one (1) research analyst and one (1) secretary. Any operating expenses shall be paid through funds appropriated under this section.

(8) The cabinet for human resources shall obligate funds to the institute for trauma care in that amount appropriated by the general assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) New and existing ambulance services in substantial compliance with licensure standards as determined by the Kentucky health facilities and health services certificate of need and licensure board and as promulgated in administrative regulations shall be issued a license designated as "conforming." Existing ambulance services not in compliance with licensure standards which meet minimum standards of quality may be issued a license designated as "nonconforming" within the discretion of the board.

(2) All existing emergency care ambulance services licensed as of the effective date and in accordance with the provisions of this Act shall have attained substantial compliance with conforming licensure standards as of the effective date of this Act, unless no conforming ambulance service adequate to meet the needs of the community is available in the geographic area served by the nonconforming ambulance service or services.

(3) Failure to have attained designation as a conforming ambulance service as of the effective date of this Act shall result in revocation of the license of the nonconforming ambulance service by the Kentucky health facilities and health services certificate of need and licensure board, unless there is no conforming ambulance service adequate to meet the needs of the community available in the geographic area served by the nonconforming ambulance service or services.

(4) New licenses issued to ambulance services not in existence as of the effective date of this Act, and licenses issued to existing ambulance services for new or replacement vehicles, shall be issued only to conforming ambulance services which comply fully with the requirements of this Act and with administrative regulations promulgated by the board.

(5) Licenses shall not be issued to non-emergency health transportation services in service areas where the minimal essential level of ambulance services is adequately met by existing licensed emergency care ambulance services as defined in this Act and in the emergency medical services plan.

(6) The requirements of subsections (1) through (4) of this section shall not be deemed applicable to industrial ambulance services which meet minimum standards of quality as determined by the board.

(7) The board may issue licenses for nonconforming back-up vehicles in accordance with a minimum ratio of conforming to nonconforming vehicles and which meet minimum standards of quality as determined by the board and as specified in the emergency medical services plan.

(8) All conforming licensed ambulance services shall meet the following standards:

(a) All vehicles used in the provision of emergency care ambulance services shall be designed to provide adequately for the care and transportation of patients and shall substantially comply with vehicle design criteria contained in the United States General Services Administration Specifications KKK-A-1822-A in effect at the time the vehicle is manufactured, or other specifications specified in administrative regulations, except vehicles in service or licensed prior to the effective date of this section which do not comply with United States General Services Administration Specifications or other specifications specified in administrative regulations may be granted a waiver of vehicle design requirements by the board until such time as the vehicle changes ownership or is replaced;

(b) Ambulance services shall provide emergency service on a twenty-four (24) hour basis. This provision may be met through an adequate call system or a mutual aid agreement with another licensed

ambulance service;

(c) Each emergency ambulance service shall be staffed to provide at least one (1) driver and one (1) attendant for each run. The attendant shall remain with the patient at all times during transport;

(d) One (1) attendant on each emergency care ambulance run shall be certified as an emergency medical technician (EMT) by the cabinet for human resources, or shall be a physician or registered nurse;

(e) Either the driver or a second attendant on each emergency care ambulance run shall have certification for one (1) of the following levels within six (6) months after employment:

1. EMT certification,

2. Medical corpsman training within the last five (5) years, or

3. Red cross advanced, red cross standard first aid and personal safety, or red cross advanced first aid and emergency care certification with supplemental CPR instruction;

(f) All conforming ambulance services, but no non-conforming ambulance services, shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters, and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

1. Two (2) copies of the Kentucky emergency medical service ambulance run report form, one (1) copy to be kept in the files of the ambulance service and one (1) copy to be submitted to the hospital to which the patient is transported and maintained in the hospital's files;

2. Employe records, including a resume of each employe's training and experience and evidence of current certification; and

3. Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty;

(g) Ambulance services and non-emergency health transportation services shall comply with any additional standards consistent with this section promulgated by the Kentucky health facilities and health services certificate of need and licensure board in administrative regulations.

Section 9. KRS 431.105 is amended to read as follows:

Notwithstanding any other statutory provisions to the contrary, all fines and forfeitures recovered in any court as a result of a conviction for the violation of any of the provisions of KRS 189.221, subsection (1) of 189.222 or 189.270, which violation occurred on a state-maintained highway and arrest was made by any peace officer other than a member of the bureau of state police, bureau of highways or bureau of vehicle regulation, shall inure to the benefit of the state, shall be paid to the state treasurer for the use and benefit of the bureau of highways, and no part shall be returned to the local governmental units from which they were sent. These fines and forfeitures shall be paid into the state treasury by the court collecting same and within thirty (30) days after imposition and collection. *The state shall receive ten dollars ($10) from each fine collected for each violation of KRS Chapter 189, which shall be placed in the state treasury and used solely for the purposes of this Act.*

Section 10. KRS 45A.420 is amended to read as follows:

(1) Any local public agency may enter into an agreement for cooperative purchasing with any other local public agency. When the contracting local public agency contracts for supplies, services or construction pursuant to KRS 45A.365, 45A.370, 45A.375 or 45A.380, all other parties to the agreement shall be deemed to have complied with the provisions of those sections.

(2) Nothing in KRS 45A.345 to 45A.990 shall deprive a local public agency from negotiating with vendors for supplies where such supplies are the subject of a price agreement with the Commonwealth of Kentucky provided, however, that no contract executed under this section would authorize a price higher than is contained in the price agreement with the Commonwealth of Kentucky for such specific supplies.

(3) Emergency medical services cooperatives as defined in this Act shall be permitted to enter into agreements for cooperative purchasing with agencies of local government, and with public and private ambulance services as appropriate.

(4) Nothing in KRS 45A.345 to 45A.990 shall deprive emergency medical services cooperatives as defined in this Act from negotiating with vendors of supplies where such supplies are the subject of a price agreement with the Commonwealth of Kentucky. No contract executed under this section shall authorize a price higher than is contained in the price agreement with the Commonwealth of Kentucky for such specific supplies.

(5) Where an emergency medical services cooperative is under the auspices of a local public agency, the cooperative shall be permitted to enter into agreements for cooperative purchasing notwithstanding a decision by the local public agency under KRS 45A.343 not to adopt the provisions of KRS 45A.345 through 45A.460.

Section 11. The following KRS sections are repealed:

211.950 Definitions.
211.952 Emergency medical services program.
211.954 Matching fund program for local purchase of ambulances and equipment.
211.956 Matching fund program for providing trained emergency medical service personnel.
211.958 Application to areas having volunteer ambulance services.

Motions, Petitions, and Communications (continued)

Representative Heleringer moved the adoption of the following **HR 51**:

HR 51, A RESOLUTION adjourning the House of Representatives in honor of President Ronald Reagan.

WHEREAS, the office of the President of the United States of America is the most noble and prestigious office any politican can hold; and

WHEREAS, the presidency places extreme and rigorous demands upon the officeholder; and

WHEREAS, Ronald Reagan, fortieth president of the United States, is currently enjoying the third anniversary of his inauguration; and

WHEREAS, a native of Dixon, Illinois, President Ronald Reagan is celebrating his 73rd birthday; and

WHEREAS, the oldest individual to ever be elected to the presidency, Ronald Reagan is in impeccable health;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House proudly hails and congratulates President Ronald Reagan upon the celebration of his 73rd birthday.

Section 2. That when this honorable body does adjourn this day, Tuesday, February 7, 1984, it does so in honor of President Ronald Reagan.

Section 3. That the clerk of the House is directed to transmit a copy of this resolution to President Ronald Reagan.

Representative Van Horn moved that **HR 51** be laid on the table.

On the roll call the vote was yeas 37-Barrows, Bendl, Blevins, Burch, P. Clark, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Gray, Hancock, Handy, T. Jones, Kenton, Little, Long, Lundergan, Mann, McBee, Meyer, Moberly, Nett, Noe, Perkins, Petty, P. Richardson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Van Horn, Williams, Worthington. Nays 30-Caldwell, Craddock, Endicott, Ford, Foster, Freibert, Guenthner, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Layman, Lefevers, Lile, Maggard, McNutt, Noland, Overstreet, Pearman, Rapier, Rattliff, Reinhardt, Robinson, Todd, Turner, White, Yates.

The motion that **HR 51** be laid on the table was adopted.

The following Floor Amendments were filed to Bills.

Floor Amendment No. 2 to **HB 41,** by Representative Overstreet:

Amend printed copy of **HB 41** on page 8, line 1, by inserting after the word "*agencies*" the following:

"*in any county and*";

and beginning on line 14 and ending on line 23, by deleting paragraph (4) in its entirety;

and on line 24, by renumbering paragraph "*(5)*" as paragraph "*(4)*";

and on page 9, line 2, by renumbering paragraph "*(6)*" as paragraph "*(5)*";

and on line 3, by deleting "*(4)*" and inserting in lieu there of "*(3).*"

Floor Amendment No. 1 to **HB 256,** by Representative Bennett:

Amend printed copy of **HB 256,** as follows:

Page 16, line 4, insert after "order" the following:

"*nor prevent any patient from obtaining any full or partial denture and impressions and fittings therefor from any dental laboratory without a work order when the patient so decides*";

and on line 15 after the word "*patients*" by adding "*unless the patient so decides*";

and on page 26 by deleting lines 4 through 17 in their entirety.

Floor Amendment No. 2 to **HB 256,** by Representative Burch:

Amend printed copy of **HB 256** on page 35, after line 3, by adding the following new section:

SECTION 19. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Denturist means a person who constructs, repairs, relines, reproduces, rebases, adjusts, duplicates, supplies, alters, furnishes or fits in the human oral cavity a full or partial removable denture and who also takes impressions, bite registration, tryings, and insertion of or in any part of the human oral cavity for any of the purposes listed in this paragraph.

(2) Denturists shall be exempted from the provisions of this chapter and the activities under paragraph (1) shall not constitute the practice of dentistry as defined by this chapter."

Floor Amendment No. 3 to **HB 268,** by Representative LeMaster:

Amend printed copy of **HB 268** on page 1, line 17, by deleting "utilized in combination"; and

on page 1, line 18, by deleting in its entirety; and

on page 1, line 19, by deleting "oscillating red lights,"; and

on page 2, after line 4, by adding:

(3) By ordinance, the governing body of any city or county may direct that the police or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating or oscillating lights.

and by renumbering the remaining sections.

Floor Amendment No. 4 to **HB 268,** by Representative Mann:

Amend printed copy of **HB 268** on page 1, line 6, after the word "lights,", add the following: "*or said lights used in combination with one (1) or more flashing, rotating, or oscillating blue lights*,.

The following meetings were announced:

Committee on Rules: On adjournment, State Reception Room.

Transportation: Fifteen minutes after adjournment, Room 104.

Agriculture: Cancelled for Wednesday.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, February 8, 1984.

On the roll call the vote was, yeas 66-Arnold, Barrows, Bendl, Bronger, Brown, Bruce, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Harper, Head, Hines, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaser, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Riner, B. Smith, F. Smith, Stumbo, Thomason, Todd, Van Horn, White, Williams, Yates. Nays 7-Blevins, Handy, Holbrook, Holloway, Maggard, Perkins, Robinson.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 8, 1984

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Most Reverend Thomas C. Kelly, Archbishop, Diocese of Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 7, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 14, SB 116, SB 124, SB 137, HB 7** with Senate Amendments attached thereto, and **HB 9.**

Introduction of Bills and Resolutions

HB 573, by Representative LeMaster: AN ACT relating to agister's liens.

HB 574, by Representative LeMaster: AN ACT ceding to the United States jurisdiction over the area embraced by the Federal Correctional Institution at Fayette County.

HB 575, by Representative LeMaster: AN ACT relating to reorganization and declaring an emergency.

HB 576, by Representative Barrows, Hancock, Moberly, and T. Jones: AN ACT relating to the Kentucky River.

HB 577, by Representative Barrows, Moberly, Hancock, and T. Jones: AN ACT relating to the Kentucky River.

Reference of Bills and Resolutions

The Clerk reported the committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 559, HB 568.**

Business Organizations and Professions: **HB 562, HB 566, HB 570.**

Counties and Special Districts: **HB 560, SB 155.**

Education: **HB 563, HB 564, HB 567, HB 569, SB 154.**

Energy: **HB 561.**

Judiciary-Civil: **HB 571, SB 133.**

Judiciary-Criminal: **HB 572.**

Natural Resources and Environment: **SB 46.**

State Government: **SB 71, SB 132, SB 145, SB 153, SB 159, SB 160, SB 161.**

Transportation: **HB 565, SB 16.**

Report of Committees

The Committee on Rules reported **HB 127, HB 196, HB 329, HB 433, SB 37,** and **HB 367** have been posted for passage in Orders of the Day, February 9, 1984.

The Committee on Rules reported **HJR 8** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Cities reported **HB 123, HB 245** with Committee Amendment attached thereto, **HB 324, HB 465,** and **SB 39** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 123, AN ACT relating to neighborhood redevelopment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 99A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Neighborhood Redevelopment Act."

SECTION 2. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Commissioner" means the commissioner of the department of economic development;

(2) "Department" means the department of economic development;

(3) "Insurer" means any company qualified to write mortgage guaranty insurance in accordance with subtitle 23 of KRS Chapter 304;

(4) "Local government" means a county, city, or urban county;

(5) "Mortgage" shall mean a first mortgage on real estate, in fee simple, or on a leasehold under a lease for not less than ninety-nine (99) years which is renewable, or; under a lease having a period of not less than fifty (50) years to run from the date the mortgage was executed;

(6) "Mortgage Guaranty Fund" means the fund created pursuant to Section 9 of this Act;

(7) "Mortgagee" means the original lender under a mortgage and his successors and assigns.

(8) "Mortgagor" means the original borrower under a mortgage and his successors and assigns;

(9) "Rehabilitation" means the process of returning a structure to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to historical, architectural, and cultural values;

(10) "Rehabilitation loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing:

(a) The rehabilitation of an existing residential building;

(b) The rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(c) The rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(11) "Residential building" means a building in which sleeping accommodations or sleeping accommodations and cooking facilities as a unit are provided; except when classified as an institution under the Kentucky building code.

SECTION 3. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) Any local government may by ordinance establish one (1) or more neighborhood redevelopment zones. Such zones shall be substantially residential in character and shall consist chiefly of residential buildings at least twenty-five (25) years of age. To be eligible for designation as a neighborhood redevelopment zone the area shall be found by the legislative body to be characterized by:

(a) Deteriorating housing stock;

(b) Abandoned residential buildings or vacant lots where the dwelling has been demolished by fire, vandalism or as an unsafe structure;

(c) Such other characteristics which cause the legislative body of the local government to believe the

neighborhood is in a deteriorating economic and physical condition; or

(d) Such detrimental conditions that the effect is to discourage mortgagees from making loans for, and present or prospective property owners from investing in the purchase and rehabilitation of residential buildings.

(2) The legislative body of the local government may establish a neighborhood redevelopment zone in accordance with subsection (1) of this section either on its own initiative or upon a petition filed with the clerk of the legislative body, signed by the owners or lessees of seventy-five percent (75%) of the assessed value of the property located within the proposed zone.

(3) No zone shall be established by a local government unless certified by the commissioner as qualifying pursuant to this Act.

(4) Prior to the first reading of an ordinance proposing to establish a neighborhood redevelopment zone, the legislative body shall give notice by mail to the last known owner of all real property within the proposed redevelopment zone and hold a public hearing on the question of establishment of the zone. The notice shall contain a description of the boundaries of the proposed zone and shall set out a date for a public hearing on the establishment of the zone at which any of the owners, their lessees or any other resident or taxpayer of the local government may appear.

(5) Once established, a neighborhood redevelopment zone may be dissolved only by ordinance, but in no event sooner than ten (10) years from its establishment.

(6) Upon the effective date of the ordinance establishing the zone all residential property located therein shall be subject to the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) Prior to or concurrent with the establishment of a neighborhood redevelopment zone, the legislative body of the local government shall adopt by ordinance the BOCA Basic Property Maintenance Code as drafted by the Building Officials and Codes Administrators International, Inc., and the Kentucky building code which shall be applicable to all residential buildings within the neighborhood redevelopment zone. The local government shall delegate responsibility for enforcement to the local agency responsible for local enforcement of the state building code, or such other agency deemed best qualified to carry out the responsibilities under this Act.

(2) Variances from provisions of the Kentucky building code may be granted in specific cases pursuant to the provisions of this subsection.

(a) If a submitted plan for rehabilitation of a residential building is disapproved by the local enforcement agency for non-conformity with the building code, the owner or his agent may, in writing, apply to the department of housing, buildings, and construction for a variance from the building code with respect to such plans. In making the determination to approve or disapprove the application for variance, the department shall consider:

1. The architectural and historical significance of the structure;
2. The health, safety and welfare of the public;
3. The costs of complying with the standards;
4. The ability of the applicant to proceed with the project if the variance is not granted; and
5. The significance to the neighborhood of the project.

The department may impose a reasonable fee for the evaluation of a requested variance.

(b) The department of housing, buildings and construction shall respond in writing within twenty (20) working days of the application, and such response shall be binding upon the local enforcement agency. Appeals from the determination of the department of housing, buildings and construction may be taken to the board of appeals.

(c) The department of housing, buildings and construction shall maintain a central file of all such determinations, making them available upon request, to all interested parties, and using them as precedent for other cases.

(d) The Kentucky department of housing, buildings and construction, the Kentucky state historic preservation office, and the department of economic development are authorized to establish a joint task force to identify and recommend changes in the state building code as it applies to the rehabilitation of existing housing.

(3) The U.S. Secretary of the Interior's standards of rehabilitation shall apply to the rehabilitation of the exterior of any housing listed individually on the national register of historic places or located in an historic district listed on the national register of historic places.

SECTION 5. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) Any person acquiring title to a residential building located within a neighborhood redevelopment zone, after the effective date of establishment of the zone, shall permit such building to be inspected by the local agency responsible for carrying out the duties under this Act and shall correct within a reasonable time any violations of the applicable codes which are cited by the inspectors. Any residential building containing

more than one (1) housing unit or which is not the residence of the owner of the building, that has not been inspected and brought into compliance with applicable codes within five (5) years of the date of establishment of the zone, shall be inspected by the local government and the owner thereof required to correct any code violations which exist.

(2) The purchaser shall have an affirmative duty to notify the agency given the responsibility for enforcement of the code and request an inspection. The agency shall make the inspection within three (3) working days of the notice and request.

(3) The local government may impose a reasonable fee, not to exceed twenty dollars ($20), for such inspection.

SECTION 6. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

Any local government establishing a neighborhood redevelopment zone shall establish a program for granting property assessment or reassessment moratoriums pursuant to KRS 99.595 to 99.605. Any residential building located within the neighborhood redevelopment zone shall be eligible for a property assessment moratorium certificate if such building is repaired, restored, rehabilitated or stabilized in accordance with the provisions of KRS 99.595 to 99.605.

SECTION 7. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the department of insurance shall approve the issuance of special endorsements on policies of mortgage guaranty insurance by an insurer pursuant to this section. The commissioner of the department of insurance within ten (10) days of approval shall notify the commissioner of the name of the insurer.

(2) No insurer shall be authorized to issue special endorsements except upon submission of an application to and approval of such application by the commissioner of the department of insurance. In granting such applications the commissioner of the department of insurance shall consider:

(a) The financial condition of the insurer;

(b) The percentage of defaulted loans insured by the insurer within the past five (5) years; and

(c) Such other standards as prescribed by the commissioner of the department of insurance.

(3) Upon approval by the commissioner of the department of insurance, the insurer may issue special endorsements on policies of mortgage guaranty insurance covering that portion of a mortgage or rehabilitation loan which exceeds ninety percent (90%) but is less than one hundred and twenty-five percent (125%) of the appraised value of the residential building and the property on which it is located after completion of the rehabilitation.

(4) An insurer shall issue a special endorsement only upon certification by the mortgagee that:

(a) The residential property subject to the mortgage or rehabilitation loan is located within the boundaries of a neighborhood development zone established pursuant to Section 3 of this Act;

(b) The mortgagor is unable to secure the necessary funds for rehabilitation upon reasonable terms and conditions without the guaranty provided by the special endorsement;

(c) The loan is an acceptable risk, taking into consideration the need for the rehabilitation, the security for the loan or loans, and the ability of the mortgagor to repay the mortgage or rehabilitation loan; and

(d) The mortgage or rehabilitation loan transaction complies with such other terms, conditions and restrictions as may be prescribed by the commissioner.

(5) Each mortgagee who holds a mortgage covered by a policy of mortgage guaranty insurance with a special endorsement pursuant to this section shall submit a quarterly report to the commissioner listing each mortgage or rehabilitation loan covered by such special endorsement and the status of such mortgage or rehabilitation loan.

(6) The commissioner of the department of insurance in his discretion or when requested by the commissioner as needed to protect the mortgage guaranty fund may withdraw the approval to an insurer to issue special endorsements on policies of mortgage guaranty insurance.

(7) Any insurer subject to approval by the commissioner of the department of insurance may charge a premium for the special endorsement issued pursuant to this section, of which sixty-six percent (66%) shall be remitted to the commissioner to be used pursuant to Section 9 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) If any insurer pursuant to the terms of the special endorsement to a guaranty makes payment upon a defaulted loan to the holder thereof, he shall apply to the commissioner for reimbursement out of the mortgage guaranty fund for the amount guaranteed by the special endorsement.

(2) Upon payment to an insurer pursuant to subsection (1) of this section, the mortgage guaranty fund shall be subrogated to the rights of the mortgagee for such amount paid.

SECTION 9. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

(1) There is created a Mortgage Guaranty Fund which shall be used by the commissioner for carrying out the provisions of Sections 7 and 8 of this Act.

(2) The fund shall be credited with such monies as are appropriated by the general assembly thereto, the premium charges paid by mortgagees pursuant to Section 7 of this Act less the costs of administration, and contributions from participating local governments.

(3) The mortgage insurance fund shall be used solely as a reserve for insurance guarantees given under the provisions of this Act. At no time shall the commissioner permit the aggregate principal amount of the mortgages or rehabilitation loans, guaranteed by special endorsements issued by issuers, to exceed twenty-five (25) times the amount in the fund.

SECTION 10. A NEW SECTION OF KRS CHAPTER 99A IS CREATED TO READ AS FOLLOWS:

Any owner or agent who wilfully violates the provisions of Section 4 of this Act shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) for each day the violation continues, or imprisoned for not more than ninety (90) days.

HB 245, AN ACT relating to annexation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.470 is amended to read as follows:

Whenever the limits of a city are enlarged or reduced, the city shall, *within sixty (60) days thereof,* cause an accurate map of the annexed or severed area with a metes and bounds description, together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located and in the office of the secretary of state.

Section 2. KRS 81A.475 is amended to read as follows:

Whenever any city annexes any unincorporated area or any city, or reduces the boundaries of the city, it shall be the duty of the legislative body of the annexing city to provide *within sixty (60) days thereof to* the county clerk of the county in which the annexing city is located with a map clearly delineating the boundaries of the area affected along with a list of the names and addresses of those property owners and/or registered voters who reside in such area.

The Committee Amendment No. 1 to **HB 245** is as follows:

Amend printed copy of **HB 245** on page 1, line 3, before the word "Whenever", insert the figure "*(1)*";

and on page 1, line 11, add the following new subsection to Section 1:

"*(2) No city which has annexed new territory may levy any tax upon the residents or property within such annexed area until the city has complied with the provisions of subsection (1) of this Section, and of KRS 81A.475.*

HB 324, AN ACT relating to property assessment and reassessment moratoriums.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 99.595 is amended to read as follows:

(1) "Administering agency" means the agency delegated responsibility by the legislative body to implement the provisions of KRS 99.595 to 99.605 and 132.452.

(2) "Commercial facility" means any structure the primary purpose and use of which is the operation of a commercial business enterprise and which is twenty-five (25) years old or older.

(3) "Existing residential building" means a residential building which has been in existence for at least twenty-five (25) years and use of which is to provide independent living facilities for one (1) or more persons.

(4) "Legislative body" means the board of aldermen in a city of the first class operating under KRS Chapter 83, the city council in a city operating pursuant to KRS 83A.130, the city commission in a city operating pursuant to KRS 83A.140, the board of commissioners in a city operating pursuant to KRS 83A.150, the fiscal court in a county, and the legislative body in an urban-county government operating

pursuant to KRS Chapter 67A.

(5) "Local government" means a county, municipal or urban-county government.

(6) "Rehabilitation" means the process of returning an existing structure to a state of utility through repair or alteration which makes possible an efficient contemporary use.

(7) "Repair" means the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.

(8) "Restoration" means the process of accurately recovering the form and details of a structure and its setting as it appeared at a particular period of time by removal of later work or by the replacement of missing earlier work.

(9) "Stabilization" means the process of applying measures designed to re-establish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists.

(10) "Assessment or reassessment moratorium" means *that the taxable assessment of a qualifying unit of real property shall be fixed at pre-application value* [~~the act of deferring the value of the improvements from the taxable assessment of qualifying units of real property~~] for a maximum period of five (5) years *and the assessed value established herein shall apply to all taxing districts assessing the property.*

Section 2. KRS 99.605 is amended to read as follows:

(1) Any owner of an existing residential building, or any owner or lessee of a commercial facility, may make application to the administering agency for a property assessment or reassessment moratorium certificate. The application shall be filed within thirty (30) days before commencing restoration, repair, rehabilitation or stabilization and shall be filed in a manner prescribed by the administering agency and on a form prescribed by the department of revenue. The application shall contain or be accompanied by a general description of the property and a general description of the proposed use of the property, the general nature and extent of the restoration, repair, rehabilitation or stabilization to be undertaken and a time schedule for undertaking and completing the project. If the property is a commercial facility, the application shall in addition, be accompanied by a descriptive list of the fixed building equipment which will be a part of the facility and a statement of the economic advantages expected from the moratorium, including expected construction employment.

(2) [~~Except as otherwise provided herein, the property valuation administrator, or other assessing official, and the administering agency shall maintain a record of all applications for a property assessment or reassessment moratorium and shall assess or reassess the property within thirty (30) days of receipt of the application.~~] The administering agency shall issue a moratorium certificate only after completion of the project. The applicant shall notify the administering agency when the project is complete and the administering agency shall then conduct an on-site inspection of the property for purposes of verifying improvements. *Upon issuance of the moratorium certificate, the administering agency shall file a copy of the moratorium certificate with the property valuation administrator.*

(3) The applicant shall have two (2) years in which to complete the improvement unless granted an extension by the administering agency. In no case shall the application be extended beyond two (2) additional years. This provision shall not preclude normal reassessment of the subject property.

(4) Any application for an assessment or reassessment moratorium not acted upon by the applicant shall become void two (2) years from the date of application and shall be purged from the files of the administering agency.

(5) An assessment or reassessment moratorium certificate may be transferred or assigned by the holder of the certificate to a new owner or lessee of the property.

HB 465, AN ACT establishing Historic Preservation Commissions in cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

The legislative body of any city may enact ordinances establishing local historic preservation commissions for the purpose of qualifying for historic preservation funding. The city shall comply with the 1966 national historic preservation act, as amended, in order to meet the requirements for an adequate and qualified historic preservation commission, and the legislative body shall provide:

(1) A system for surveying and inventorying historic properties;

(2) Procedures for adequate public participation in the local historic preservation program, including the process of recommending properties to the national register;

(3) The enforcement of appropriate state and local legislation for the designation and protection of historic properties; and

(4) Such other responsibilities as may be required by the 1966 national historic preservation act, as amended.

SB 39, AN ACT relating to pensions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, 70.580 to 70.598, 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or 96.180 shall submit the retirement system to an actuarial evaluation at least once every three (3) years. The evaluation shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the legislative research commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) All lawful expenses for general administration, performance bonds, medical, actuarial, accounting, auditing, legal and investment services of a retirement system listed in subsection (1) of this section shall be paid from the pension fund. Actuaries performing evaluations pursuant to this section shall include estimates of such expenses in their recommendations for pension system funding, and local governments shall add payments for such expenses to their annual contributions to their respective retirement systems.

Section 2. KRS 95.620 is amended to read as follows:

(1) Except as provided in *KRS 65.156 and* subsections (2), (3) and (4) of this section, the policemen's and fire fighter's pension fund in cities of the third or fourth class shall be held and distributed for the purpose of paying pensions and benefits, and for no other purpose.

(2) From July 15, 1982 and thereafter, the board of trustees of the pension fund shall, upon the request of a member, refund a member's contributions, including contributions picked up by the employer pursuant to KRS 65.155, upon that member's withdrawal from service prior to qualifying for pension. The member shall be entitled to receive a refund of the amount of contributions made by the member, including contributions picked up by the employer pursuant to KRS 65.155, after the date of establishment, without interest.

(3) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(4) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under the provisions hereof. After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six per cent (6%) interest from the dates of refund to the date of repayment. Such repayments shall not be picked up by the employer pursuant to KRS 65.155. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

Section 3. KRS 67A.320 is amended to read as follows:

(1) Any urban-county government in which there existed a municipality which had in effect an employes' pension fund prior to its merger into the urban-county form of government shall provide by comprehensive plan or ordinance for the maintenance of the said pension fund for those employes covered by the said pension fund by a levy of a tax of not exceeding five cents ($.05) on each one hundred dollars' value of taxable property in the urban area of the urban-county government, as established in the comprehensive plan or by ordinance, the proceeds of that tax to be paid to the pension fund in cash, and shall in each case provide, by such tax or otherwise, for the payment to the pension fund in each month of the sum necessary to maintain such fund in accordance with the actuarial principles established by the actuarial studies described hereafter, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, and in any case not in excess of eight percent (8%) of the monthly salary

of each employe unless a higher rate was charged prior to the merger of governments, in which case the higher rate may be charged, the assessment to be deducted from the employes' salaries or picked up pursuant to subsection (2) of this section and paid in cash into the pension fund. Within six (6) months after the effective date of the urban-county form of government, or within six (6) months after June 21, 1974, whichever shall be later, the trustees of the board shall, at the expense of the *pension fund* [~~urban-county government~~], provide for the performance of an actuarial study, which study shall be completed within six (6) months thereafter, and which study shall describe the amounts necessary to be contributed by the urban-county government or other sources to fund on an actuarially sound basis the benefits promised or described in the said fund, including any payments required to bring said fund to an actuarially sound position in the event that it was not so at the time of the performance of the study, in which latter event the legislative body shall also determine a reasonable period over which such additional funding shall be made, which period shall not exceed thirty (30) years. A similar study shall be arranged by the board at the cost of the urban-county government at least once in every three-year period thereafter. In the event that fund created by this section is extended to cover employes not described in the first sentence hereof, the actuarial study shall determine the required payments so as to keep the expanded fund on an actuarially sound basis, and the urban-county government shall maintain such fund as set out herein, and shall assess against the additional covered employes the same monthly contribution as is required for other government employes.

(2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The urban-county government shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of this section in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

(3) The pick up of employe contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employe retirement benefit is based.

(4) There is hereby created a board for the existing employes pension fund and trustees of that board. Trustees from the pension fund board shall consist of the mayor, four (4) members of the legislative body of the urban-county government selected by the legislative body, the secretary of the department of finance, the director of the division of personnel, and three (3) civil service employes to be elected to the board by those employes covered by the employes' pension fund. In the event that there is no position in the urban-county government denominated secretary of the department of finance and/or director of the division of personnel, the appointed office of the urban-county government exercising the functions most closely resembling such office shall serve as trustee.

(5) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(6) In no year shall the contribution by the urban-county government to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(7) The trustees of the pension fund shall, at least once every three (3) months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where urban-county employes frequent and report.

Section 4. KRS 67A.560 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice-president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice-president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of

the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The director of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The director of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The director of law of the government shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the *pension fund* [~~government~~].

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of city contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service and other essential factors. At least once every three (3) years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost of living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the circuit court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

Section 5. KRS 67A.570 is amended to read as follows:

The board may invest the moneys accruing to the fund, in interest-bearing bonds of any county, urban county government or city of the first, second or third class in this commonwealth, or in any securities in which trustees are permitted to invest trust funds under the laws of this commonwealth. Such bonds shall be registered in the name of the board to the extent possible. The securities acquired by the board shall be deposited with the director of finance and shall be subject to the order of the board. The board may at the cost of the *pension fund* [~~government~~] employ or engage consultants to provide investment advice to aid the board in its determinations.

The Committee on State Government reported **HB 10, HB 220** with Committee Substitute attached thereto, **HB 375** with Committee Amendment attached thereto, **HB 450, HB 479** with Comittee Amendment attached thereto, and **HJR 7** with the express of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 10, AN ACT relating to capital construction and equipment financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.750 to 45.800:

(a) "Committee" means the capital construction and equipment purchase oversight committee.

(b) "Capital construction" includes:

(i) The construction, reconstruction and structural maintenance of buildings;

(ii) The installation of utility services, including roads and sewers;

(iii) The acquisition of land for the construction or reconstruction of a building or for the installation of utility services;

(iv) The purchase and installation initially of equipment, facilities and furnishings of a permanent nature for buildings;

(v) The purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable; and

(vi) Major items of equipment, to include aircraft, estimated to cost fifty thousand dollars ($50,000) or more.

(c) "Capital construction project" means any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost two hundred thousand dollars ($200,000) or more, and "major item of movable equipment," estimated to cost fifty thousand dollars ($50,000) or more.

(d) "Purchase of equipment" shall include, but not be limited to, equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "Emergency repair, maintenance or replacement project" means the maintenance, repair or reconstruction of a capital construction project or the maintenance, repair or replacement of a major item of equipment that is:

(i) Necessitated by injury or damage resulting from a disaster; or

(ii) Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or

(iii) Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(f) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(2) KRS 45.750 to 45.800 shall apply to capital construction projects and the purchase of major items of equipment for use by the state government or one of its departments or agencies, including institutions of higher education, but excluding capital construction projects or equipment purchases used *directly* in the construction or maintenance of roads, *including but not limited to bulldozers, graders, earth movers, and real estate purchased for rights-of-way.* KRS 45.750 to 45.800 shall not apply to political subdivisions.

HB 220, AN ACT relating to the building code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes, including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;

(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure or non-mine underground area affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products. This chapter shall not apply to any single family dwelling except those sold or constructed under a trade or brand name, *or to tobacco warehouses built prior to June 17, 1978.*

(5) Any city, county or urban-county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (4) of this section, but may not enforce any building code other than the uniform state building code on such dwellings.

(6) Nothing in this chapter shall be construed to exempt single family dwellings from those provisions of the uniform state building code that relate to the national electric code and the state plumbing code.

(7) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:
(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(8) "Certified building inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwealth.

(9) "Certified plans and specifications inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.

(10) "Certified plumbing inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.

(11) "Commissioner" means the commissioner of housing, buildings and construction.

(12) "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein, but shall not include the ordinary repair of a building or structure.

(13) "Department" means the department of housing, buildings and construction.

(14) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction, including among others:
(a) Academies;
(b) Care centers;

(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Pre-schools;
(g) Relocatable classroom units;
(h) Schools;
(i) Seminaries;
(j) Universities.

(15) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(16) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(17) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard, including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(18) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(19) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained, including among others:

(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of correction;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;

(k) Sanitariums;
(l) Nurseries.

(20) "Mobile home" means mobile home as defined in KRS 227.550(9).

(21) "Ordinary repair" means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, or decoration, and shall include, but not be limited to, the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

(22) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(23) "Physically handicapped person" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging.

(24) "Facility for physically handicapped persons" means any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors.

(25) "Tobacco warehouse" means any building or structure used primarily for the sale or auction of tobacco.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Unless explicitly stated, exemption of tobacco warehouses from the provisions of this chapter is not intended to exempt them from provisions of existing law regulating them for the purposes of health, safety and welfare.

The Committee Substitute to **HB 220** is as follows:

HB 220, AN ACT relating to the building code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Any proposed change of occupancy to a more restrictive classification, for temporary purposes only, shall not be required to comply with this chapter if prior approval for such use is obtained pursuant to KRS 227.300 and the regulations adopted thereunder.

Section 2. KRS 227.300 is amended to read as follows:

(1) The commissioner shall promulgate reasonable rules and regulations based on good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. After promulgation of the uniform state building code, no part of the standards of safety shall establish, in whole or in part, any building code other than the uniform state building code, but the commissioner may supplement the uniform state building code with fire safety regulations designed to operate in conjunction with the code.

(2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; maximum occupancy loads and other requirements for buildings of public assembly; flue and chimney construction; heating devices; boilers and pressure vessels; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair and service shops; application of flammable finishes, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibres; airports and

airport buildings; hazardous chemicals; rubbish; open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(3) For the purpose of integrating the need for safety from hazards of fire with the other safety needs of infants or preschool children under institutional care, the commissioner shall allow persons who own, manage or are employed by institutions which provide care or education for infants or preschool children to participate in drafting the standards of safety as they apply to such institutions. Such participation shall be by representation of professional associations relating to infant and preschool care, and by representation from other individuals licensed to provide infant and preschool care, on a committee chaired by the state fire marshal or his designate. Such participation shall occur prior to the publication of proposed regulations in the administrative register pursuant to KRS 13.085 and 13.096, but shall not limit any individual's right to use those procedures set forth in KRS Chapter 13 concerning comment on or protest of proposed regulations. All professional associations relating to infant and preschool care shall be notified by the commissioner when the drafting of standards of safety relating to such institutions is commenced and all such professional associations shall be regularly notified of the time and place of any meetings conducted by authorized employes of the department for the purpose of drafting such standards.

(4) The commissioner shall publish guidelines relating to the standards of safety as they apply to day care and preschool child care centers and nurseries, which shall indicate the items inspectors from the office of the state fire marshal will be looking for when they conduct inspections pursuant to the standards of safety. Such guidelines shall be made available to persons who own, operate or manage such centers or nurseries, and shall be designed to enable said persons to anticipate and comply with the requirements of the standards of safety.

(5) The commissioner shall issue supplemental regulations addressing the temporary change of use in buildings as authorized by KRS Chapter 198B. These regulations shall establish specific standards for such use and shall be designed to operate in conjunction with the Kentucky building code.

HB 375, AN ACT relating to statute revision.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) There is created a statute revision advisory commission of the legislative research commission, whose function shall be to make recommendations of substantive changes in those statutes which a court of this state or a federal court in its opinion has stated are in conflict or ambiguous or unconstitutional or that a particular proposal for change is a legislative matter. The commission may also make recommendations of substantive changes to eliminate inconsistencies in the laws of the Commonwealth. The commission may review model and uniform legislation and make recommendations relating thereto.

(2) The membership shall consist of the following:

(a) The reviser of statutes, who shall be ex officio chairman;

(b) The assistant reviser of statutes, who shall be ex officio vice-chairman;

(c) The co-chairmen of the interim joint committee on judiciary-civil, who shall be ex officio members;

(d) The dean of each of the law schools in the Commonwealth or his designee;

(e) A law professor from each of the law schools in the Commonwealth, selected by the dean of the respective law school; and

(f) Three (3) members of the Kentucky bar association, selected by the president of the bar association.

(3) The commission shall meet at least twice a year, but may meet more often on the call of the chairman.

(4) The members shall receive no compensation other than their ordinary and necessary expenses for attending each meeting.

(5) The chairman may appoint subcommittees, whose members may include persons who are not members of the commission. If there are no funds available from another source to pay the ordinary and necessary expenses of such persons for attending meetings, they shall be compensated from the funds of the general assembly.

(6) The commission shall keep the interim joint committee on judiciary-civil apprised of its recommendations and shall report to the appropriate interim committees with jurisdiction of the subject matter of the recommended legislation.

The Committee Amendment No. 1 to **HB 375** is as follows:

Amend printed copy of **HB 375** on page 2, line 5, by deleting "*of the Kentucky bar associa-*" and inserting in lieu thereof "*appointed by the legislative research commission*" and by deleting line 6 in its entirety.

HB 450, AN ACT relating to benefits for public safety personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5) or (7)of this section or any one (1) of the plans set forth in KRS 61.635.

(4) The member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and *thirty-five hundredths percent (2.35%)* [~~twenty-five hundredths per cent (2.25%)~~] of final compensation for each year of service credit.

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years.

(6) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS 16.510 to 16.652 a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

HB 479, AN ACT relating to the William G. Kenton Center for Governmental and Political Studies and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Kenton Center" means William G. Kenton Center for Governmental and Political Studies.

(2) "Board" means board of governors of the William G. Kenton Center for Governmental and Political Studies.

(3) "Executive director" means executive director for the William G. Kenton Center for Governmental and Political Studies.

(4) "Commission" means Kentucky advisory commission on intergovernmental relations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

The William G. Kenton Center for Governmental and Political Studies is hereby created and established as an independent corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic. It shall be exempt from the governor's reorganization powers established by KRS Chapter 12. The functions and duties of the Kenton Center for Governmental and Political Studies shall be:

(1) To train local and state government officials, working through the existing network of training service providers and such programs as may be established in the future.

(2) To create, staff, and support a Kentucky advisory commission on intergovernmental relations (ACIR), as provided in Section 7 of this Act.

(3) To examine emerging strategic issues facing Kentucky in the intermediate-term future through research, public forum, education and information dissemination.

(4) To encourage and facilitate program development relating to national collaborative research and information on state government policy and program development, foundation funding, and demonstration programs using Kentucky as a "laboratory state."

(5) To utilize the networking principle in implementing its programs in order to support and enhance existing programs and not to replace or duplicate ongoing research, training and public service activities.

(6) To work in cooperation with the council on higher education in the creation and support of a special research and development committee for university research and public service coordination. The Kenton center shall work with this committee to coordinate public service research and development by devising strategies for:

(a) Assessing the emerging needs for research in the Commonwealth and bringing those needs to the attention of universities and their faculties and other research personnel;

(b) Developing and maintaining an inventory of the existing research at Kentucky's universities and disseminating this inventory;

(c) Assisting in the efforts by Kentucky's universities to attract financial support for research projects from federal and other national sources;

(d) Encouraging financial support for research related to the economic development of Kentucky from private businesses and industry;

(e) Disseminating to the general public information on research and public service activities at the state's academic institutions; and

(f) Through a special panel representing private business and industry, increasing cooperation and collaboration in research activities between private industry and universities.

(7) To provide administrative services, technical assistance and advice, and office space to all task forces, select committees, and commissions at the request of the governor, a cabinet secretary, the legislative research commission, the chief justice, or other appointing authority. All such task forces, select committees and commissions shall maintain their identity and their full authority for making recommendations and shall report to the appointing authority. To the extent that the Kenton center does provide administrative services, the respective task forces, select committees, and commissions are relieved of the power and duty to provide the services for themselves. The Kenton center shall charge each task force, select committee, or commission a reasonable amount for administrative services provided pursuant to this section.

(8) To periodically review task force reports for the purpose of preventing repetition, avoiding duplication of efforts and providing recommendations to the legislature or the appointing authority where it deems advisable.

(9) To engage in such other activities as may be consistent with the purposes of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

(1) The board of governors of the Kenton center for governmental and political studies shall be composed of nineteen (19) members as follows: governor, speaker of the house, president pro tempore of the senate, one (1) additional member from the senate and one (1) additional member from the house of representatives appointed by the legislative research commission with at least one (1) representing the minority party, chief justice of the supreme court, superintendent of public instruction, chairman of the council on higher education, one (1) representative of the Kentucky municipal league appointed by the governor from a list of three (3) nominations by the league, one (1) representative of the Kentucky association of county officials appointed by the governor from a list of three (3) nominations by the Kentucky association of county officials, one (1) university president appointed by the governor from a list of three (3) nominations by the council of university presidents, four (4) citizens appointed by the governor, three (3) citizens appointed by the board of governors, and one (1) member to be appointed by the governor from a list of three (3) nominations by the executive committee of the Kentucky council of area development districts and appointed by the governor. Should any member cease to be an officer or employe of the unit or agency he is appointed to represent, his membership on the board shall terminate immediately, and a new member shall be appointed in the same manner as his predecessor to fill the unexpired term.

(2) Initial appointments shall be made for terms beginning January 1, 1985. The representative of the Kentucky municipal league, the representative of the Kentucky association of county officials, the university president representing the council of university presidents, and the representative of the executive committee of the Kentucky council of area development districts shall serve for regular terms of four (4) years and until their successors are appointed and qualified. Of the first citizens appointed by the governor after the effective date of this Act, one (1) citizen shall hold office for a term of two (2) years, one (1) citizen for three (3) years, and two (2) citizens for four (4) years. Of the first citizens appointed by the board of governors, one (1) citizen shall hold office for a term of two (2) years, one (1) citizen for three (3) years, and one (1) citizen for four (4) years. Initial appointments for the member from the senate and the member from the house of representatives shall be made for two (2) years. Citizen members, the member from the senate and the member from the house of representatives subsequently appointed shall be appointed for a period of four (4) years and until their successors are appointed and qualified. A member who is appointed to succeed another member whose term has not expired shall be appointed for the period of the unexpired term and may be subsequently appointed

for a four (4) year term and until a successor is appointed and qualified.

(3) Ten (10) members of the board shall constitute a quorum for the transaction of business. A proxy can be appointed by any of the members who has the same general qualifications as the member. The board shall, by a vote of a majority of its membership, promulgate rules of procedure governing its operations. The governor shall be the chairman of the board of governors. The vice-chairman shall be elected annually by a majority vote of the membership of the board. In the event of the absence or disability of both the chairman and the vice-chairman, the members of the board of governors shall elect a temporary chairman by a majority vote of those present and voting.

(4) The board of governors shall hold meetings quarterly and at such other times as it deems necessary. The board may hold public hearings from time to time on matters within its purview. Meetings shall be called by the chairman on his own initiative or at the written request of any three (3) members of the board. By February 1, 1985, the chairman shall convene the organizational meeting. All meetings shall be electronically recorded, and full minutes and records shall be maintained of all meetings and official actions of the board. The same standards shall apply to the executive committees and advisory boards. All meetings of the board, or any committee thereof, at which public business is discussed or formal action is taken shall conform to KRS 61.805-61.845 relating to open meetings of public agencies.

(5) Members who are full-time salaried public officials or employes are not entitled to a per diem salary for duties performed as a member of the board. Members who are not full-time salaried government officers or employes shall receive sixty-five dollars ($65) per diem. Each member is entitled to reimbursement for actual and necessary expenses in accordance with KRS 45.101, unless the member is entitled to reimbursement from another source.

(6) By its subpoena, the board may compel the attendance of witnesses and the production of books, papers, and records of any agency of the state or any of its political subdivisions. If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the board desires information pertaining to its purposes, the Franklin circuit court, on application of the board of governors, may compel obedience by proceedings for contempt, as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein.

(7) The board may:

(a) Solicit funds from any source, public or private;

(b) Expend such funds for purposes authorized by this Act;

(c) Acquire property by donation, gift, devise, purchase or other method permitted by law; and

(d) Dispose of real or personal property.

(8) The board may establish advisory committees as it deems necessary and feasible, whose membership shall include at least one (1) member of the board, but only the board or executive committee when authorized by the board may set policy or take other official action. Each advisory committee member shall receive reimbursement for actual and necessary expenses in accordance with KRS 45.101. Board or commission members who serve on an advisory committee shall be paid a per diem equal to that paid for attending a board or commission meeting.

(9) The board may select annually from its membership an executive committee.

(a) The executive committee shall consist of five (5) voting members and one (1) non-voting member as follows:

1. The vice-chairman of the board of governors who shall serve as the presiding officer of the executive committee;

2. One (1) of the following three (3) members selected by lot: the speaker of the house, the president pro tempore of the senate, the member from the senate, the member from the house of representatives, and the chief justice of the supreme court;

3. One (1) of the following three (3) members selected by lot: the superintendent of public instruction, chairman of the council on higher education, and the university president board member;

4. One (1) member selected by lot from among the seven citizen board members;

5. One (1) of the following selected by lot from among the representatives on the board from the Kentucky municipal league, the Kentucky association of county officials, and the executive committee of the Kentucky council of area development districts; and

6. The chairman of the board of governors shall serve as ex-officio non-voting member.

(b) Meetings of the executive committee shall be called by a majority of the executive committee or by the chairman or vice-chairman of the board of governors. The board may delegate to the executive committee any or all of the following duties:

1. To manage the financial assets and obligations of the Kenton center;

2. To guide the activities of the Kenton center between meetings of the board of governors; and

3. To perform such other duties as the board might delegate to it.

SECTION 4. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

The board of governors of the Kenton center shall:

(1) Select a suitable location for the Kenton center conference and office facility, using the following

criteria:

(a) Symbolic independence from any individual university;

(b) Symbolic independence from political factionalism or influence, especially for maximum private sector and citizen involvement, finance and participation;

(c) Central location for greatest possible accessibility by car;

(d) Location near one (1) of the three (3) major airports in Kentucky;

(e) Availability of hotels, motels and restaurants;

(f) Accessibility to state agencies; and

(g) Accessibility to research resources.

(2) Set policy, provide oversight, secure staff and financial resources necessary to the center's operation;

(3) Employ and set the compensation of an executive director, who shall serve at its pleasure;

(4) Create, coordinate and maintain appropriate active advisory committees of users and providers of training services for program development and implementation. Advisory committees shall include, but not be limited to, representatives of the following: Kentucky association of county officials, Kentucky municipal league, Kentucky school board association, Kentucky school administrators association, area development districts, department for local government, universities, library boards, Kentucky chamber of commerce, Kentucky farm bureau. Appointment of advisory committees shall be upon recommendation of the executive director;

(5) Make the choice of central public policy issues for research and development from background information and recommendations supplied by staff;

(6) Determine desirability of a national advisory board. If the board deems a national advisory board to be desirable, appointments shall be made by the board of governors on the recommendation of the executive director of the Kenton center. Members of the national advisory board should be selected on the basis of their nationally-recognized achievement or scholarship in the field of public affairs and their potential contributions to the center's quality of operations. In the selection of members, the board shall request the executive director of the council of state governments to serve on the national advisory board;

(7) Issue reports of its findings and recommendations from time to time and issue annually a public report on its work. Reports shall be made available to members of the general assembly and to the public upon their request. The board of governors shall establish policy for distribution of reports. The board may prescribe reasonable fees for distribution of its publications;

(8) Keep a complete, accurate and adequate set of fiscal transactions subject to generally accepted accounting principles and shall keep a complete file of copies of all audit reports, examinations, investigations, and other reports or releases issued by the Kenton center and a complete file of audit work papers and other evidence pertaining to the work of the Kenton center; and

(9) Conform to generally accepted good management practices in purchasing. The board may make purchases through the finance and administration cabinet, subject to the provisions of KRS Chapter 45.

SECTION 5. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

(1) The executive director may employ professional, technical, legal, clerical, or other staff, as necessary and authorized, and may remove such staff. The executive director may contract for professional, technical, legal, clerical, or other services as authorized by the board, subject to provisions of KRS 45.700 to 45.720. The executive director shall employ a deputy director, who shall serve as staff director of the Kentucky advisory commission on intergovernmental relations. The executive director shall, at the discretion of the board of governors and under its supervision and control, provide for the allocation of the work and activities of all employes of the Kenton center.

(2) The executive director shall prepare the budget request for approval by the board of governors in the form and manner required by applicable law. For the purposes of KRS Chapters 45 and 48, the Kenton center shall be considered a budget unit attached to the legislative branch of government.

(3) The executive director shall perform, in the name of the board, such functions and duties and may exercise such authority of the board as the board may delegate to him.

(4) The staff of the Kenton center shall be within the unclassified service, and their compensation shall be determined by the board of governors within the limitations of appropriations for Kenton center staff purposes.

SECTION 6. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

Each officer, board, commission, council, department, or agency of state government, and each political subdivision of the state, shall make available all facts, records, information, and data requested by the board of governors and in all ways cooperate with the board of governors in carrying out functions and duties imposed by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

(1) There is established in the Kenton center for governmental and political studies a Kentucky advisory commission on intergovernmental relations.

(2) The functions and duties of the commission shall be as follows:

(a) To serve as a forum for the discussion and resolution of intergovernmental problems;

(b) To research and investigate intergovernmental issues;

(c) To work with the legislative research commission in drafting and disseminating legislative bills, constitutional amendments and model local ordinances related to its recommendation;

(d) To encourage, and where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, state and local agencies, the federal advisory commission on intergovernmental relations, other federal agencies, and research and consulting organizations; and

(e) To advance cooperation between the Commonwealth and other units of government by exercising principal responsibility and authority for:

1. The proposing of compacts;

2. The proposing of uniform laws, model laws, and reciprocal statutes;

3. The encouraging of uniform or reciprocal administrative rules and regulations;

4. The interchange and clearance of research and information;

5. Any other governmental action, agreement, or process that affects intergovernmental cooperation;

6. To encourage state-local and interlocal cooperation by formulating proposals for, and by facilitating the enactment of, statutes and the adoption of administrative agreements to give departments and agencies of the Commonwealth and the local governmental units of the Commonwealth broad authority to enter into intergovernmental agreements, contracts and compacts; and

7. To maintain liaison with and to analyze studies, reports, and suggested legislative proposals prepared by the federal advisory commission on intergovernmental relations, the council of state governments, and national conference of commissioners on uniform state laws, the national conference of state legislatures, and similar agencies, and make recommendations to the board of governors, the governor and the general assembly.

(3) The Kentucky advisory commission on intergovernmental relations shall be composed of twenty-one (21) members as follows:

(a) Two (2) elected county officials appointed by the governor from a list of four (4) nominations by the Kentucky association of counties;

(b) Two (2) elected city officials appointed by the governor from a list of four (4) nominations by the Kentucky municipal league;

(c) Two (2) elected school officials appointed by the governor from a list of four (4) nominations by the Kentucky school board association;

(d) Two (2) members of the executive committee of the Kentucky council of area development districts appointed by the governor from a list of four (4) nominations by the executive committee of the Kentucky council of area development districts;

(e) Two (2) state executive branch officials appointed by the governor;

(f) Three (3) private citizens appointed by the governor;

(g) Three (3) state senators appointed by the president pro tempore of the senate;

(h) Three (3) state representatives appointed by the speaker of the house of representatives;

(i) Two (2) judges or justices of the court of justice appointed by the chief justice of the supreme court; and

(j) Should any member cease to be an officer or employe of the unit or agency he is appointed to represent, his membership on the commission shall terminate immediately, and a new member shall be appointed in the same manner as his predecessor to fill the unexpired term.

(4) Initial appointments shall be made for terms beginning January 1, 1985. Of the first members appointed one (1) of the county officials, one (1) of the city officials, one (1) of the school officials, one (1) of the members of the executive committee of the Kentucky council of area development districts, one (1) of the state executive branch officials, one (1) private citizen, one (1) state senator, one (1) state representative, and one (1) judge or justice shall hold office for a term of two (2) years. Of the first members appointed, one (1) private citizen, one (1) state senator, and one (1) state representative shall hold office for a term of three (3) years. The remaining members, and members subsequently appointed, shall be appointed for a term of four (4) years and until their successors are appointed and qualify. A member who is appointed to succeed another member whose term has not expired shall be appointed for the period of the unexpired term, and may be subsequently appointed for a four-year term and until a successor is appointed and qualified. Members of the commission shall be appointed without regard to political affiliation.

(5) Eleven (11) members of the commission shall constitute a quorum for the transaction of business. The commission shall, by a vote of a majority of its membership, promulgate rules of procedure governing its operations. The chairman and vice-chairman of the commission shall be elected annually from its membership by a majority vote of the membership of the commission. In the event of the absence or disability of both the chairman and vice chairman, the members of the commission shall elect a temporary chairman by a majority vote of those present and voting.

(6) The commission shall hold meetings quarterly and at such other times as it deems necessary. The

commission may hold public hearings from time to time on matters within its purview. Meetings shall be called by the chairman on his own initiative or at the written request of any three (3) members of the commission. By February 1, 1985, the vice-chairman of the board of governors of the Kenton center shall convene the organizational meeting of the Kentucky advisory commission on intergovernmental relations for the purpose of electing the chairman and vice-chairman of the commission. All meetings of the commission shall be electronically recorded, and full minutes and records shall be maintained of all meetings and official actions of the commission. All meetings of the commission, or any committee thereof, at which public business is discussed or formal action is taken shall conform to KRS 61.805-61.845 relating to open meetings of public agencies.

(7) A member of the commission who is a full-time salaried public official or employe is not entitled to a salary for duties performed as a member of the commission. Legislators and other members who are not full-time salaried government officers or employes shall receive fifty dollars ($50) per diem. Each member is entitled to reimbursement for actual and necessary expenses in accordance with KRS 45.101.

(8) The staff director for the commission shall be the deputy director of the Kenton center as provided for in Section 5 of this Act.

(9) The commission may establish committees as it deems advisable and feasible, whose membership shall include at least one (1) member of the commission, but only the commission itself may set policy or take other official action. Each committee member shall receive reimbursement for actual and necessary expenses in accordance with KRS 45.101. Commission members who serve on a committee shall receive a per diem equal to that paid for attending a commission meeting.

(10) Each officer, board, commission, council, department, or agency of state government, and each political subdivision of the state, shall make available all facts, records, information, and data requested by the commission and in all ways cooperate with the commission in carrying out the functions and duties of this Act.

(11) The commission shall issue reports of its findings and recommendations from time to time, and shall issue annually a public report on its work.

SECTION 8. A NEW SECTION OF KRS CHAPTER 8 IS CREATED TO READ AS FOLLOWS:

Funds appropriated to the board or received by the board shall be placed in a trust and agency account to be known as the Kenton Center Fund. The entire proceeds of the fund shall be continuously appropriated to the use of the board for the purposes authorized by this Act and shall not lapse.

Section 9. KRS 7.110 is amended to read as follows:

(1) The commission or any member thereof, or an employe duly authorized by the commission or the chairman thereof, shall have access to all records of every agency, division or department of state government, and of any agency or institution, public or private, which has been the recipient of public funds. The commission or any member thereof, or any employe duly authorized by the commission or the chairman thereof, may require information on oath of any person touching any matter which he is instructed to investigate, study or audit, and shall have the power to subpoena witnesses and records for such purpose, and otherwise compel the giving of evidence of any matter under study. If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the commission desires information pertaining to the studies in which it is engaged, the Franklin Circuit Court, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Every witness so subpoenaed under this section shall receive for his attendance the fee and mileage provided for witnesses in civil cases in circuit court, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness and approved by the commission.

(2) All state agencies and institutions shall cooperate with the commission to effectuate the purposes of KRS 7.090 to 7.110 and shall submit copies of their annual or biennial reports to the commission.

(3) The commission shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the council of state governments, both regionally and nationally, and formulate proposals for cooperation between this state and other states. The *commission shall select Kentucky's member on the board of managers of the council of state governments. The commission also is authorized to select from among the members of the general assembly, the legislative member or members of any interstate body created by statute if no other method of selection of such member or members is set forth by statute* [~~legislative research commission shall function as Kentucky's commission on interstate cooperation in carrying out the program of the council of state governments as it relates to Kentucky~~].

(4) The commission shall designate persons to represent Kentucky at the national conference of commissioners on uniform state laws. The commission shall report the findings and recommendations of the national conference to the general assembly. Any funds appropriated to the commissioners on uniform state laws shall be paid out on vouchers approved by the director of the commission.

(5) The commission may establish such subcommittees and advisory citizens' committees as may be convenient or desired for the proper and efficient performance of its functions. Members of the general

assembly other than those who are members of the commission designated to serve on subcommittees shall receive the same travel allowances and compensation for attending meetings as they do for attending meetings during a session of the general assembly, except that each general assembly member who is a chairman of a joint interim committee of the legislative research commission shall be paid, in addition to such allowances and compensation, ten dollars ($10.00) per day for each committee meeting that he chairs.

(6) The commission shall report its findings, either with or without recommendations, to the governor of the Commonwealth, and to each member of the general assembly at least thirty (30) days prior to the convening of each regular session of the general assembly.

Section 10. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employes of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employes for employment, dismissal and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsections (1)(e), (1)(g) and (1)(h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employes of such institutions; and officers, teachers, and employes of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45.700 to 45.720;

(p) Seasonal, temporary, and emergency employes;

(q) Federally funded time-limited employes;

(r) Officers and members of the state militia;

(s) State police troopers and sworn officers in the bureau of state police, department of justice;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and commonwealth's attorneys and their respective appointees*;*

(x) Employes of the William G. Kenton Center for Governmental and Political Studies.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 11. KRS 18A.155 is amended to read as follows:

(1) The commissioner shall prepare and submit proposed rules to the governor for employes in unclassified positions enumerated in paragraphs (g), (h), (i), (j), (k), (p), (u), and (v) of subsection (1) of KRS 18A.115. Such rules shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The rules shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the secretary of the department of finance, and taking into account such factors as 1. the relative levels of duties and responsibilities of various classes of positions; 2. rates paid for comparable positions elsewhere; and 3. the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner through the secretary of the department of finance. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in subsection (2) of KRS 18A.075;

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with KRS 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (b), (d), (e), [~~and~~] (q), *and (x)* of subsection (1) of KRS 18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 12. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employes of the general assembly, including employes of the legislative research commission, members of boards and commissions, those officers and employes of Kentucky Educational Television *and the employes of the Kenton Center for Governmental and Political Studies* exempt from classified service as provided in KRS 18A.115, presidents and employes of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the department of personnel shall prepare a schedule of compensation, payable out of the state treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employe, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the department of personnel shall ascertain and record the duties, responsibilities and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been

approved by the governor.

(2) The governor shall set the compensation payable out of the state treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the amount provided for compensation to the governor in KRS 64.480, the provisions of KRS 64.660 to the contrary notwithstanding.

(3) The compensation payable out of the state treasury to officers and employes subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employes of the public service commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the department of personnel with the approval of the governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employes of the state.

Section 13. KRS 156.715 is amended to read as follows:

The Kentucky representation on the commission provided by Article III of the compact consists of seven (7) members, one (1) of whom shall be the governor; two (2) of whom shall be members of the general assembly, a representative and a senator, selected by the legislative research commission in accordance with KRS *7.110*[~~8.080~~]; and four (4) of whom shall be appointed by and serve at the pleasure of the governor.

Section 14. To carry out the purposes of this Act, there is appropriated to the William G. Kenton Center for Governmental and Political Studies out of the general fund in the state treasury the sum of three hundred thousand dollars ($300,000) for the 1984-85 fiscal year and the sum of three hundred thousand dollars ($300,000) for the 1985-86 fiscal year.

Section 15. The following KRS sections are repealed:

8.010 Interstate cooperation commission consists of legislative research commission -- Duties.
8.020 Meetings of commission and advisory boards.
8.030 Governor's advisory committee on intergovernmental relations -- Membership -- Functions -- Chairman.
8.040 Methods of promoting intergovernmental cooperation.
8.050 Encouragement of state-local and interlocal cooperation.
8.060 Analysis and recommendations of legislative proposals -- Studies by other states to be available.
8.070 Reports of commission -- Requirement of reports from state agencies.
8.080 Selection of Kentucky's members on interstate organizations.
8.090 State agencies to advise and assist.

The Committee Amendment No. 1 to **HB 479** is as follows:

Amend printed copy of **HB 479** on page 5, line 21, after the word "*districts*" by deleting the word "*and*"; and

on page 5, line 22, by deleting the words "*appointed by the governor*"; and

on page 10, line 2, after the word "*following*" by deleting "*three (3)*" and inserting in lieu thereof "*five (5)*"; and

on page 15, line 23, by deleting the word "*recommendation*" and inserting in lieu thereof the word "*recommendations*"; and

on page 21, line 18, by deleting the word "*board*" and inserting in lieu thereof the words "*Kenton Center*"; and

on page 21, line 19, by deleting the word "*board*" and inserting in lieu thereof the words "*Kenton Center*"; and

on page 23, line 10, by inserting the word "*governing*" before the word "*board*" and deleting the words "*of managers*".

HR 7, A RESOLUTION directing the Kentucky Center for Veterans' Affairs, in cooperation with the Finance and Administration Cabinet, to assist in planning for a Vietnam veterans' memorial in Frankfort, and making an appropriation therefor.

WHEREAS, the recent dedication of the National Vietnam Veterans' Memorial in Washington, D.C., represented our country's recognition of its Vietnam veterans; and

WHEREAS, this memorial was built entirely through private donations with the cooperation of the federal government, and is a laudable example of Vietnam veterans providing for themselves; and

WHEREAS, many Kentucky Vietnam veterans have expressed a willingness to follow the national example by establishing a state Vietnam veterans' memorial in Frankfort; and

WHEREAS, the General Assembly wishes to support this effort and to assist these Vietnam veterans through the facilities of state government;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Center for Veterans' Affairs, in cooperation with the Finance and Administration Cabinet, is directed to identify a suitable site for a state Vietnam veterans' memorial in Frankfort, either on land which is already owned by the Commonwealth or on land to be acquired by the Commonwealth, and to assist in the planning and design of such a memorial. These state agencies shall communicate regularly with the mayor of Frankfort and the county judge/executive of Franklin County in regard to the planning of a state Vietnam veterans' memorial.

Section 2. The Kentucky Center for Veterans' Affairs, in cooperation with the Finance and Administration Cabinet, is directed to provide this assistance to and coordinate the activities of: any non-profit organizations that are established to promote a state Vietnam veterans' memorial; any formally organized Vietnam veterans' groups or programs; and any veterans' service organizations.

Section 3. There is hereby appropriated the sum of twenty-five thousand dollars ($25,000) out of the general fund of the Commonwealth for fiscal year 1984-85 to be used by the Kentucky Center for Veterans' Affairs in cooperation with the Finance and Administration Cabinet, to assist our Vietnam veterans in the establishment of a state memorial. Any portion of this appropriation that is not expended in fiscal year 1984-85 shall be carried forward to fiscal year 1985-86.

Calendar

HB 14, HB 400, HB 446, SB 8, SB 51, HB 152, HB 258, HB 273, HB 335, HB 466, HB 346, HB 319, HB 486, HB 154, and **HB 203** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 216, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Head moved the adoption of the Committee Amendment No. 1 to **HB 216**. Agreed.

Representative Brinkley moved that his remarks in regard to **HB 216** be spread upon the Journal. Agreed.

Representative Brinkley made the following remarks in regard to **HB 216**:

"The provisions of this bill do not apply to family-owned cemeteries."

Representative Brinkley moved that **HB 216**, as amended, be passed.

On the roll call the vote was yeas 76-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Holloway, Johnson, R. Jones, Kidd, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Turner, Williams, Worthington, Yates. Nays 13-Brown, Cline, Dawahare, Farrow, Freibert, Holbrook, T. Jones, Little, Noe, Perkins, Thomason, Van Horn, White.

HB 216, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 216,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 317 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 317** be passed.

On the roll call the vote was yeas 54-Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Clapp, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Donnermeyer, Foster, Gedling, Hancock, Handy, Head, Hines, Holbrook, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, Overstreet, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Seum, B. Smith, Thomas, Thomason, Williams, Worthington. Nays 35-Allen, Bennett, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cyrus, Dawahare, Deskins, Dunn, Endicott, Farrow, Ford, Fryman, Harper, Heleringer, Holloway, Layman, Lefevers, Little, Maggard, McElroy, Noland, O'Brien, Pearman, Priddy, Robinson, F. Smith, Stone, Stumbo, Todd, Turner, Van Horn, Yates.

HB 317 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 317** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 256, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Amendment No. 1 to **HB 256.** Agreed.

Representative Bendl moved that **HB 256,** as amended, be passed.

Representative Burch moved the adoption of the Floor Amendment No. 2 to **HB 256.** Agreed.

Representative Bendl moved that **HB 256,** as amended, be laid on the Clerk's desk.

Representative Burch moved that **HB 256,** as amended, be laid on the table.

On the roll call the vote was yeas 27-Allen, Bennett, Bronger, Burch, Clapp, L. Clark, Crupper, Dawahare, Dunn, Endicott, Ford, Foster, Fryman, Guenthner, Layman, Lefevers, Maggard, Moore, Noland, Reinhardt, Robinson, Todd, Turner, Van Horn, White, Williams, Yates. Nays 58-Arnold, Barrows, Bendl, Blevins, Brinkley, Brown, Bruce, Caldwell, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Freibert, Gedling, Gray, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, LeMaster, List, Little, Long, Lundergan, Mann, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Overstreet, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason.

The motion that **HB 256,** as amended, be laid on the table was rejected.

On the roll call the vote was yeas 62-Arnold, Barrows, Bendl, Blevins, Brinkley, Brown, Bruce, Caldwell, Clapp, P. Clark, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Ellington, Farrow, Foster, Freibert, Gedling, Hancock, Harper, Head, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, List, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, White, Worthington. Nays

27-Allen, Bennett, Blandford, Bronger, Burch, L. Clark, Clarke, Crupper, Dawahare, Dunn, Endicott, Ford, Gray, Guenthner, Handy, Lile, Little, Maggard, Noland, Reinhardt, Robinson, Thomas, Todd, Turner, Van Horn, Williams Yates.

The motion that **HB 256,** as amended, be laid on the Clerk's desk was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 9** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:38 p.m.)

HB 9 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 377, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved the adoption of the Committee Amendment No. 1 to **HB 377.** Agreed.

Representative Dunn moved the adoption of the Floor Amendment No. 1 to **HB 377.** Agreed.

Representative Dunn moved that **HB 377,** as amended, be passed.

On the roll call the vote was yeas 79-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, Little, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Van Horn, White, Williams, Worthington, Yates. Nays 16-Allen, Brown, Endicott, Farrow, Fryman, Lefevers, List, Long, Moore, Noe, Noland, Pearman, Robinson, Thomason, Todd, Turner.

HB 377, as amended, was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 377,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that **HB 410** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 2-Clarke, McNutt.

HB 410 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 410** was passed be reconsidered and said

motion be placed on the table. Agreed.

HB 268, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Floor Amendment No. 3 to **HB 268.**

On the roll call the vote was yeas 73-Arnold, Barrows, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Farrow, Foster, Freibert, Gedling, Gray, Guenthner, Handy, Head, Hines, Holbrook, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, , Worthington, Yates. Nays 14-Allen, Caldwell, Donnermeyer, Endicott, Ford, Hancock, Harper, Holloway, Johnson, T. Jones, Mann, McBee, Pearman, Reinhardt.

Floor Amendment No. 3 to **HB 268** was adopted.

Representative Morris moved that **HB 268,** as amended, be passed.

Representative Mann moved the adoption of the Floor Amendment No. 4 to **HB 268.**

On the roll call the vote was yeas 15-Caldwell, Crupper, Donnermeyer, Endicott, Gray, Johnson, T. Jones, Lundergan, Mann, McBee, Meyer, Noe, Petty, Reinhardt, Thomas. Nays 59-Allen, Arnold, Bennett, Blevins, Brinkley, Bruce, Burch, Burnette, L. Clark, P. Clark, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Kenton, Layman, Lefevers, LeMaster, Lile, List, Long, Maggard, McElroy, McNutt, Moore, Morris, Overstreet, Perkins, Priddy, Rapier, B. Richardson, P. Richardson, Seum, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Yates.

Floor Amendment No. 4 to **HB 268** was rejected.

On the roll call the vote was yeas 76-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McElroy, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Perkins, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 20-Allen, Brown, Caldwell, Cline, Crupper, Donnermeyer, Endicott, Harper, Johnson, T. Jones, Layman, Mann, McBee, Meyer, Pearman, Petty, Reinhardt, Richards, Riner, Thomas.

HB 268, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 268,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 57, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Van Horn moved the adoption of the Committee Amendment No. 1 to **SB 57.** Agreed.

Representative Van Horn moved that **SB 57,** as amended, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 8-Crupper, Endicott, Ford, Fryman, Harper, Holloway, McNutt, B. Smith.

SB 57, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 57,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Van Horn moved that the clincher motion on **SB 57,** as amended, be removed. Agreed.

Representative Van Horn moved the adoption of the Committee Title Amendment to **SB 57.** Agreed.

Representative Van Horn moved that the Committee Title Amendment be reconsidered. Agreed.

Representative Van Horn moved the adoption of the Committee Amendment No. 2 to **SB 57.**

Representative Van Horn moved that the vote on **SB 57,** as amended, be reconsidered. Agreed.

Representative Van Horn moved the adoption of the Committee Amendment No. 2 to **SB 57.**

Representative Cowan moved that **SB 57** be laid on the Clerk's desk. Agreed.

Motions, Petitions, and Communications

The following meetings was announced.

Committee Chairman: 30 minutes after adjournment, Room 107.

Committee on Rules: On adjournment, State Reception Room.

Business Organizations and Professions: Joint hearing, 10:00 a.m., House Chamber. (Re: **HB 165)**

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 578, by Representative Nett, Hines, and Handy: AN ACT relating to education finance.

HB 579, by Representatives LeMaster, Hancock, Farrow, Long, and Barrows:AN ACT relating to the Kentucky retirement systems, as referenced in KRS 61.645.

HB 580, by Representatives LeMaster and Johnson: AN ACT relating to the judicial retirement plans and making an appropriation therefor.

HB 581, by Representative LeMaster: AN ACT relating to the Kentucky retirement systems, as referenced in KRS 61.645.

HB 582, by Representatives Pearman and Gedling: AN ACT relating to limitation of actions.

HB 583, by Representative LeMaster: AN ACT to revise and correct the Kentucky Revised Statutes.

HB 584, by Representative List: AN ACT relating to individual income tax.

HB 585, by Representatives Bronger and Stumbo: AN ACT relating to sales and use tax.

HB 586, by Representatives Clarke and R. Jones: AN ACT relating to liability insurance for architects and engineers.

HB 587, by Representative Donnermeyer: AN ACT relating to banks.

HB 588, by Representatives Perkins, Handy, Hines, Head, Brown, Maggard, Dawahare, Mann, Stumbo, Moore, Cyrus, Brinkley, and Bronger: AN ACT relating to electric and gas utility service.

HB 589, by Representatives Bronger, Blandford, Handy, Hines, Perkins, Stumbo, Dunn, Williams, Clapp, Bennett, Rapier, Crupper, P. Clark, List, and Thomason: AN ACT relating to credit unions.

HR 55, by Representative Williams: A RESOLUTION adjourning the House of Representatives in honor of President Ronald Reagan.

HR 54, by Representatives Gray, Blevins, Brown, Allen, Arnold, Bennett, Bronger, Bruce, Burnette, Caldwell, Clapp, L. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Handy, Harper, Heleringer, Holbrook, Johnson, T. Jones, Layman, Lile, List, Lundergan, Maggard, Mann, McBee, Meyer, Moore, Mooris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Reinhardt, Richards, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Worthington, and Yates: A RESOLUTION granting Junior Williamson of Pikeville, Kentucky, privilege of the House floor during the 1984 legislative session.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 58, HB 297, HB 327, HB 494, HB 528, SB 2, SB 65, SB 102, SB 121.**

Labor and Industry: **HB 347, HB 348, HB 501, HB 363.**

Report of Committees

The Committee on Judiciary-Civil reported **HB 224,** with Committee Substitute attached thereto, and **SB 11,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 224, AN ACT relating to rental agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 383.505 IS REPEALED AND REENACTED.

(1) KRS 383.505 to 383.715 shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of KRS 383.505 to 383.715 are:

(a) To encourage landlords and tenants to maintain and improve the quality of housing; and

(b) To make uniform the law with respect to the subject of KRS 383.505 to 383.715 among those states which enact it.

SECTION 2. KRS 383.510 IS REPEALED AND REENACTED.

Unless displaced by the provisions of KRS 383.505 to 383.715, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

SECTION 3. KRS 383.515 IS REPEALED AND REENACTED.

KRS 383.505 to 383.715 being a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

SECTION 4. KRS 383.520 IS REPEALED AND REENACTED.

(1) The remedies provided by KRS 383.505 to 383.715 shall be so administered that an aggrieved party

may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) Any right or obligation declared by KRS 383.505 to 383.715 is enforceable by action unless the provision declaring it specifies a different and limited effect.

SECTION 5. KRS 383.525 IS REPEALED AND REENACTED.

A claim or right arising under KRS 383.505 to 383.715 or on a rental agreement, if disputed in good faith, may be settled by agreement.

SECTION 6. KRS 383.530 IS REPEALED AND REENACTED.

KRS 383.505 to 383.715 applies to, regulates, and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit located within this state.

SECTION 7. KRS 383.535 IS REPEALED AND REENACTED.

Unless created to avoid the application of KRS 383.505 to 383.715, the following arrangements are not governed by KRS 383.505 to 383.715:

(1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational counseling, religious, or similar service.

(2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

(3) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.

(4) Transient occupancy in a hotel, or motel, or lodgings subject to state transient lodgings or room occupancy excise tax act.

(5) Occupancy by an employe of a landlord whose right to occupancy is conditional upon employment in and about the premises.

(6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

(7) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

SECTION 8. KRS 383.540 IS REPEALED AND REENACTED.

(1) The district courts of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by KRS 383.505 to 383.715 or with respect to any claim arising from a transaction subject to KRS 383.505 to 383.715. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.

(2) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by KRS 383.505 to 383.715, or engages in a transaction subject to KRS 383.505 to 383.715, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the Secretary of State, but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

SECTION 9. KRS 383.545 IS REPEALED AND REENACTED.

Subject to additional definitions contained in subsequent sections of KRS 383.505 to 383.715 which apply to specific sections or paragraphs thereof, and unless the context otherwise requires:

(1) "Action" includes recoupment, counterclaim, set-off suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit.

(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(5) "Landlord" means the owners, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by KRS 383.585.

(6) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity.

(7) "Owner" means one (1) or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

(8) "Person" includes an individual or organization.

(9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(10) "Rent" means all payments except a security deposit as defined in this section to be made to the landlord under the rental agreement.

(11) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under KRS 383.610 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(12) "Roomer" or "boarder" means a tenant occupying a dwelling unit:

(a) Which lacks at least one (1) major bathroom facility or kitchen facility, such as a toilet, refrigerator, or a stove; and

(b) In a building where one (1) or more such major facilities are supplied to be used in common by the occupants of the tenant's dwelling unit and by the occupants of one (1) or more other dwelling units; and

(c) In a building in which the landlord resides.

(13) "Security deposit" means an escrow payment made to the landlord under the rental agreement for the purpose of securing the landlord against financial loss due to damage to the premises occasioned by the tenant's occupancy other than ordinary wear and tear.

(14) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one (1) or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

(15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

(16) "Unconscionable" means an act or conduct which is willful and is so harsh and unjust as would be condemned or considered to be wrongful and would be shocking to the conscience of honest and fair-minded persons.

(17) "Willful" means with deliberate intention, not accidentally or inadvertently, and done according to a purpose.

SECTION 10. KRS 383.550 IS REPEALED AND REENACTED.

Every duty under KRS 383.505 to 383.715 and every act which must be performed as a condition precedent to the exercise of a right or remedy under KRS 383.505 to 383.715 imposes an obligation of good faith in its performance or enforcement.

SECTION 11. KRS 383.555 IS REPEALED AND REENACTED.

(1) If the court, as a matter of law, finds:

(a) A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(b) A settlement in which a party waives or agrees to forego a claim or right under KRS 383.505 to 383.715 or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

SECTION 12. KRS 383.560 IS REPEALED AND REENACTED.

(1) A person has notice of a fact if:

(a) He has actual knowledge of it;

(b) He has received a notice or notification of it; or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

(2) A person knows or has knowledge of a fact if he has actual knowledge of it.

(3) A person notifies or gives a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person receives a notice or notification when:

(a) It comes to his attention; or

(b) In the case of the landlord, it is delivered in writing at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communications, or mailed by certified mail to him at his place of business or at any place held out by him as the place for receipt of any communication.

(c) In the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication, or in the absence of such designation, to his last known place of residence.

(4) Notice, knowledge or a notice or notification received by an organization if effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to his attention if the organization had exercised reasonable diligence.

SECTION 13. KRS 383.565 IS REPEALED AND REENACTED.

(1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by KRS 383.505 to 383.715 or other rule of law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(2) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one (1) month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day-to-day.

(3) Unless the rental agreement fixes a definite term, the tenancy is week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

SECTION 14. KRS 383.570 IS REPEALED AND REENACTED.

(1) A rental agreement may not provide that the tenant:

(a) Agrees to waive or forego rights or remedies under KRS 383.505 to 383.715;

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement;

(c) Agrees to pay the landlord's attorney's fees; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith.

(2) A provision prohibited by subsection (1) included in rental agreement is unenforceable.

SECTION 15. KRS 383.575 IS REPEALED AND REENACTED.

A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with KRS 383.595(1).

SECTION 16. KRS 383.580 IS REPEALED AND REENACTED.

(1) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the U.S. Government. Prospective tenants shall be informed of the location of the separate account and the account number.

(2) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing, but shall not be construed to be conclusive to latent defects. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(3) At the termination of occupancy, the landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(4) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (1) of this section and if the initial and final damage listings required by subsections (2) and (3) of this section are not provided.

(5) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (3) of this section may bring an action in district court. Tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the provisions of paragraph (3) of this section, or except as otherwise provided, and if the tenant shall fail to sign the listing or specifically dissent in accordance with paragraph (3) of this section, the tenant shall not be entitled to recover any damages under this section.

(6) In the event a tenant leaves not paying his last month's rent and does not demand a return of his deposit, the landlord may, after thirty (30) days, remove the deposit from the account and apply any such excess to the debt owing.

(7) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant. In the event the landlord shall not have received a response from the tenant within sixty (60) days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in his behalf.

SECTION 17. KRS 383.585 IS REPEALED AND REENACTED.

(1) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

(a) The person authorized to manage the premises; and

(b) An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

(2) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner, or manager.

(3) A person who fails to comply with subsection (1) becomes an agent of each person who is a landlord for:

(a) Service of process and receiving and receipting for notices and demands; and

(b) Performing the obligations of the landlord under KRS 383.505 to 383.715 and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

SECTION 18. KRS 383.590 IS REPEALED AND REENACTED.

At the commencement of the term a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and KRS 383.595. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in KRS 383.695(4).

SECTION 19. KRS 383.595 IS REPEALED AND REENACTED.

(1) A landlord shall:

(a) Comply with the requirements of applicable building and housing codes materially affecting health and safety;

(b) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(c) Keep all common areas of the premises in a clean and safe condition;

(d) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him; and

(e) Supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1 except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

(2) If the duty imposed by paragraph (a) of subsection (1) is greater than any duty imposed by any other paragraph of that subsection, the landlord's duty shall be determined by reference to paragraph (a) of subsection (1).

(3) The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraph (e) of subsection (1) and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) The landlord and tenant of any dwelling unit other than a single family residency may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) The work is not necessary to cure noncompliance with subsection (1)(a) of this section; and

(c) The agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

SECTION 20. KRS 383.600 IS REPEALED AND REENACTED.

(1) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and KRS 383.505 to 383.715 as to events occurring after written notice to the tenant of the conveyance.

(2) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and KRS 383.505 to 383.715 as to events occurring after written notice to the tenant of the termination of his management.

SECTION 21. KRS 383.605 IS REPEALED AND REENACTED.

A tenant shall:

(1) Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(2) Keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(3) Dispose from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(4) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition

permits;

(5) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises;

(6) Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and

(7) Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises.

SECTION 22. KRS 383.610 IS REPEALED AND REENACTED.

(1) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

(a) Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) It is reasonably related to the purpose for which it is adopted;

(c) It applies to all tenants in the premises in a fair manner;

(d) It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) It is not for the purpose of evading the obligations of the landlord; and

(f) The tenant has notice of it at the time he enters into the rental agreement, or when it is adopted.

(2) If a rule or regulation is adopted after the tenant enters into the rental agreement that works a substantial modification of his bargain it is not valid unless the tenant consents to it in writing.

SECTION 23. KRS 383.615 IS REPEALED AND REENACTED.

(1) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(3) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and may enter only at reasonable times.

(4) A landlord has no other right of access except:

(a) Pursuant to court order;

(b) As permitted by KRS 383.665 and 383.670(2); or

(c) Unless the tenant has abandoned or surrendered the premises.

SECTION 24. KRS 383.620 IS REPEALED AND REENACTED.

Unless otherwise agreed, a tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises in excess of seven (7) days no later than the first day of the extended absence.

SECTION 25. KRS 383.625 IS REPEALED AND REENACTED.

(1) Except as provided in KRS 383.505 to 383.715, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with KRS 383.595 materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied in fourteen (14) days, and the rental agreement shall terminate as provided in the notice subject to the following:

(a) If the breach is remediable by repairs, the payment of damages or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.

(b) If substantially the same act or ommission which constituted a prior noncompliance covered by subsection (1) of which notice was given recurs within six (6) months, the tenant may terminate the rental agreement upon at least fourteen (14) days written notice specifying the breach and the date of termination of the rental agreement.

(c) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

(2) Except as provided in KRS 383.505 to 383.715, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement of KRS 383.595.

(3) The remedy provided in subsection (2) is in addition to any right of the tenant arising under subsection (1) of this section.

(4) If the rental agreement is terminated, the landlord shall return all prepaid rent.

SECTION 26. KRS 383.630 IS REPEALED AND REENACTED.

(1) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in KRS 383.590, rent abates until possession is delivered and the tenant may:

(a) Terminate the rental agreement upon at least five (5) days' written notice to the landlord and upon termination the landlord shall return all prepaid rent and damage fee; or

(b) Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him.

(2) If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than three (3) months' periodic rent or threefold the actual damages sustained, whichever is greater, and reasonable attorney's fees.

SECTION 27. KRS 383.635 IS REPEALED AND REENACTED.

(1) If the landlord willfully and materially fails to comply with the rental agreement or fails to comply with KRS 383.595 and such noncompliance materially affects health and safety and the reasonable cost of compliance is less than one hundred dollars ($100), or an amount equal to one-half (1/2) of the monthly rent, whichever amount is greater, the tenant may notify the landlord of his intention to correct the condition at the landlord's expense. If the landlord willfully fails to comply within fourteen (14) days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement for the work actually done and for which the tenant has paid in full, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection.

(2) A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

SECTION 28. KRS 383.640 IS REPEALED AND REENACTED.

(1) If, contrary to the rental agreement of KRS 383.595, the landlord willfully fails to supply heat, running water, hot water, electric, gas, or other essential service, the tenant may give written notice to the landlord specifying the breach and may:

(a) Procure reasonable amounts of heat, hot water, running water, electric, gas, and the essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(c) Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(2) In addition to a remedy provided in paragraph (c) of subsection (1) the tenant may recover reasonable attorney's fees.

(3) If the tenant proceeds under this section, he may not proceed under KRS 383.625 or 383.635 as to that breach.

(4) Rights of the tenant under this section do not arise until he has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

SECTION 29. KRS 383.645 IS REPEALED AND REENACTED.

(1) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount he may recover under the rental agreement of KRS 383.565. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.

(2) In an action for rent when the tenant is not in possession, he may counterclaim as provided in subsection (1) but is not required to pay any rent into court.

SECTION 30. KRS 383.650 IS REPEALED AND REENACTED.

(1) If the dwelling unit or premises are damaged or destroyed by fire or casualty or so injured by the elements, act of God, or other cause to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant or the landlord may terminate the rental agreement upon fourteen (14) days notice; however, the tenant may immediately vacate the premises.

(2) If the rental agreement is terminated under provision of this section the landlord shall return all the unused portion of the prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the casualty.

SECTION 31. KRS 383.655 IS REPEALED AND REENACTED.

If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than three (3) months periodic rent and a reasonable attorney's fee.

If the rental agreement is terminated, the landlord shall return all prepaid rent.

SECTION 32. KRS 383.660 IS REPEALED AND REENACTED.

(1) Except as provided in KRS 383.505 to 383.715, if there is a material noncompliance by the tenant with the rental agreement or a material noncompliance with KRS 383.605 or 383.610, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen (14) days after receipt of the notice. If the breach is not remedied in fifteen (15) days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six (6) months, the landlord may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven (7) days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(3) Except as provided in KRS 383.505 to 383.715, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or KRS 383.605 or 383.610. If the tenant's noncompliance is willful the landlord may recover actual damages and reasonable attorney's fees.

SECTION 33. KRS 383.665 IS REPEALED AND REENACTED.

If there is noncompliance by the tenant with KRS 383.605 or 383.610 materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen (14) days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

SECTION 34. KRS 383.670 IS REPEALED AND REENACTED.

(1) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven (7) days as required in KRS 383.620 and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(2) During any absence of the tenant in excess of seven (7) days, the landlord may enter the dwelling unit at times reasonably necessary.

(3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

SECTION 35. KRS 383.675 IS REPEALED AND REENACTED.

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

SECTION 36. KRS 383.680 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before August 1, *1984* [~~1974~~].

(2) Distraint for rent is abolished.

SECTION 37. KRS 383.685 IS REPEALED AND REENACTED.

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in KRS 383.660(3).

SECTION 38. KRS 383.690 IS REPEALED AND REENACTED.

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, electric, running water, hot water, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in KRS 383.505 to 383.715.

SECTION 39. KRS 383.695 IS REPEALED AND REENACTED.

(1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least seven (7) days before the termination date specified in the notice.

(2) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to

the other at least thirty (30) days before the periodic rental date specified in the notice.

(3) The landlord or the tenant may terminate a tenancy begun upon the termination of a written lease by written notice given to the other at least ten (10) days before the termination date specified in the notice, except that if the tenant fails to pay rent within ten (10) days after the day it becomes due, the landlord may terminate the tenancy at any time without notice.

(4) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than three (3) months' periodic rent or threefold the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, KRS 383.565(3) applies.

SECTION 40. KRS 383.700 IS REPEALED AND REENACTED.

(1) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fee.

(2) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages and reasonable attorney's fees.

SECTION 41. KRS 383.705 IS REPEALED AND REENACTED.

(1) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

(a) The tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;

(b) The tenant has complained to the landlord of a violation under KRS 383.595;

(c) The tenant has organized or become a member of a tenant's union or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in KRS 383.655 and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within one year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(3) Notwithstanding subsections (1) and (2) of this section, a landlord may bring an action for possession if:

(a) The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in his household or upon the premises with his consent;

(b) The tenant is in default in rent; or

(c) Compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(4) The maintenance of an action under subsection (3) of this section does not release the landlord from liability under KRS 383.625(2).

SECTION 42. KRS 383.710 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

Transactions entered into before August 1, *1984* [~~1974~~], and not extended or renewed on and after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by 1974 Acts Ch. 378 as though the repeal or amendment had not occurred.

SECTION 43. KRS 383.715 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

[~~(1) The provisions of KRS 383.505 to 383.715 shall apply only to Counties containing cities of the First Class and Urban-County Governments.~~

~~(2)~~] KRS 383.505 to *383.710* [~~383.715~~] shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."

The Committee Substitute to **HB 224** is as follows:

HB 224, AN ACT relating to rental agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

The general assembly hereby authorizes cities, counties and urban-county governments to enact the provisions of the Uniform Residential Landlord and Tenant Act as set forth in Sections 2 through 41 of this Act. If adopted, these provisions shall be adopted in their entirety and without amendment. No other ordinance shall be enacted by a city, county or urban-county government which relates to the subjects embraced in this Act.

SECTION 2. KRS 383.505 IS REPEALED AND REENACTED.

(1) KRS 383.505 to 383.715 shall be liberally construed and applied to promote its underlying purposes and policies.

(2) Underlying purposes and policies of KRS 383.505 to 383.715 are:

(a) To encourage landlords and tenants to maintain and improve the quality of housing; and

(b) To make uniform the law with respect to the subject of KRS 383.505 to 383.715 among those states which enact it.

SECTION 3. KRS 383.510 IS REPEALED AND REENACTED.

Unless displaced by the provisions of KRS 383.505 to 383.715, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause supplement its provisions.

SECTION 4. KRS 383.515 IS REPEALED AND REENACTED.

KRS 383.505 to 383.715 being a general act intended as a unified coverage of its subject matter, no part of it is to be construed as impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

SECTION 5. KRS 383.520 IS REPEALED AND REENACTED.

(1) The remedies provided by KRS 383.505 to 383.715 shall be so administered that an aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

(2) Any right or obligation declared by KRS 383.505 to 383.715 is enforceable by action unless the provision declaring it specifies a different and limited effect.

SECTION 6. KRS 383.525 IS REPEALED AND REENACTED.

A claim or right arising under KRS 383.505 to 383.715 or on a rental agreement, if disputed in good faith, may be settled by agreement.

SECTION 7. KRS 383.535 IS REPEALED AND REENACTED.

Unless created to avoid the application of KRS 383.505 to 383.715, the following arrangements are not governed by KRS 383.505 to 383.715:

(1) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational counseling, religious, or similar service.

(2) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.

(3) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.

(4) Transient occupancy in a hotel, or motel, or lodgings subject to state transient lodgings or room occupancy excise tax act.

(5) Occupancy by an employe of a landlord whose right to occupancy is conditional upon employment in and about the premises.

(6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

(7) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

SECTION 8. KRS 383.540 IS REPEALED AND REENACTED.

(1) The district courts of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by KRS 383.505 to 383.715 or with respect to any claim arising from a transaction subject to KRS 383.505 to 383.715. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the court by the service of process in the manner provided by this section.

(2) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by KRS 383.505 to 383.715, or engages in a transaction subject to KRS 383.505 to 383.715, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the Secretary of State, but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his last reasonably

ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

SECTION 9. KRS 383.545 IS REPEALED AND REENACTED.

Subject to additional definitions contained in subsequent sections of KRS 383.505 to 383.715 which apply to specific sections or paragraphs thereof, and unless the context otherwise requires:

(1) "Action" includes recoupment, counterclaim, set-off suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) "Building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit.

(3) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(4) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(5) "Landlord" means the owners, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by KRS 383.585.

(6) "Organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, and any other legal or commercial entity.

(7) "Owner" means one (1) or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the premises. The term includes a mortgagee in possession.

(8) "Person" includes an individual or organization.

(9) "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(10) "Rent" means all payments except a security deposit as defined in this section to be made to the landlord under the rental agreement.

(11) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under KRS 383.610 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(12) "Roomer" or "boarder" means a tenant occupying a dwelling unit:

(a) Which lacks at least one (1) major bathroom facility or kitchen facility, such as a toilet, refrigerator, or a stove; and

(b) In a building where one (1) or more such major facilities are supplied to be used in common by the occupants of the tenant's dwelling unit and by the occupants of one (1) or more other dwelling units; and

(c) In a building in which the landlord resides.

(13) "Security deposit" means an escrow payment made to the landlord under the rental agreement for the purpose of securing the landlord against financial loss due to damage to the premises occasioned by the tenant's occupancy other than ordinary wear and tear.

(14) "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one (1) or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

(15) "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

(16) "Unconscionable" means an act or conduct which is willful and is so harsh and unjust as would be condemned or considered to be wrongful and would be shocking to the conscience of honest and fair-minded persons.

(17) "Willful" means with deliberate intention, not accidentally or inadvertently, and done according to a purpose.

SECTION 10. KRS 383.550 IS REPEALED AND REENACTED.

Every duty under KRS 383.505 to 383.715 and every act which must be performed as a condition precedent to the exercise of a right or remedy under KRS 383.505 to 383.715 imposes an obligation of good faith in its performance or enforcement.

SECTION 11. KRS 383.555 IS REPEALED AND REENACTED.

(1) If the court, as a matter of law, finds:

(a) A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result; or

(b) A settlement in which a party waives or agrees to forego a claim or right under KRS 383.505 to 383.715 or under a rental agreement was unconscionable when made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

(2) If unconscionability is put into issue by a party or by the court upon its own motion, the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement to aid the court in making the determination.

SECTION 12. KRS 383.560 IS REPEALED AND REENACTED.

(1) A person has notice of a fact if:

(a) He has actual knowledge of it;

(b) He has received a notice or notification of it; or

(c) From all the facts and circumstances known to him at the time in question he has reason to know that it exists.

(2) A person knows or has knowledge of a fact if he has actual knowledge of it.

(3) A person notifies or gives a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person receives a notice or notification when:

(a) It comes to his attention; or

(b) In the case of the landlord, it is delivered in writing at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communications, or mailed by certified mail to him at his place of business or at any place held out by him as the place for receipt of any communication.

(c) In the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication, or in the absence of such designation, to his last known place of residence.

(4) Notice, knowledge or a notice or notification received by an organization if effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to his attention if the organization had exercised reasonable diligence.

SECTION 13. KRS 383.565 IS REPEALED AND REENACTED.

(1) A landlord and a tenant may include in a rental agreement terms and conditions not prohibited by KRS 383.505 to 383.715 or other rule of law, including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

(2) Rent is payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one (1) month or less and otherwise in equal monthly installments at the beginning of each month. Unless otherwise agreed, rent is uniformly apportionable from day-to-day.

(3) Unless the rental agreement fixes a definite term, the tenancy is week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

SECTION 14. KRS 383.570 IS REPEALED AND REENACTED.

(1) A rental agreement may not provide that the tenant:

(a) Agrees to waive or forego rights or remedies under KRS 383.505 to 383.715;

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement;

(c) Agrees to pay the landlord's attorney's fees; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith.

(2) A provision prohibited by subsection (1) included in rental agreement is unenforceable.

SECTION 15. KRS 383.575 IS REPEALED AND REENACTED.

A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with KRS 383.595(1).

SECTION 16. KRS 383.580 IS REPEALED AND REENACTED.

(1) All landlords of residential property requiring security deposits prior to occupancy shall be required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the Commonwealth of Kentucky or any agency of the U.S. Government. Prospective tenants shall be informed of the location of the separate account and the account number.

(2) Prior to tendering any consideration deemed to be a security deposit, the prospective tenant shall be presented with a comprehensive listing of any then-existing damage to the unit which would be the basis for a charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall have the right to inspect the premises to ascertain the accuracy of such listing prior to taking occupancy. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing, but shall not be construed to be conclusive to latent defects. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(3) At the termination of occupancy, the landlord shall inspect the premises and compile a

comprehensive listing of any damage to the unit which is the basis for any charge against the security deposit and the estimated dollar cost of repairing such damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of such listing. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of such listing. If the tenant shall refuse to sign such listing, he shall state specifically in writing the items on the list to which he dissents, and shall sign such statement of dissent.

(4) No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (1) of this section and if the initial and final damage listings required by subsections (2) and (3) of this section are not provided.

(5) A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (3) of this section may bring an action in district court. Tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the provisions of paragraph (3) of this section, or except as otherwise provided, and if the tenant shall fail to sign the listing or specifically dissent in accordance with paragraph (3) of this section, the tenant shall not be entitled to recover any damages under this section.

(6) In the event a tenant leaves not paying his last month's rent and does not demand a return of his deposit, the landlord may, after thirty (30) days, remove the deposit from the account and apply any such excess to the debt owing.

(7) In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonably determinable address, of the amount of any refund due the tenant. In the event the landlord shall not have received a response from the tenant within sixty (60) days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in his behalf.

SECTION 17. KRS 383.585 IS REPEALED AND REENACTED.

(1) A landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

(a) The person authorized to manage the premises; and

(b) An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for notices and demands.

(2) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner, or manager.

(3) A person who fails to comply with subsection (1) becomes an agent of each person who is a landlord for:

(a) Service of process and receiving and receipting for notices and demands; and

(b) Performing the obligations of the landlord under KRS 383.505 to 383.715 and under the rental agreement and expending or making available for the purpose all rent collected from the premises.

SECTION 18. KRS 383.590 IS REPEALED AND REENACTED.

At the commencement of the term a landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and KRS 383.595. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in KRS 383.695(4).

SECTION 19. KRS 383.595 IS REPEALED AND REENACTED.

(1) A landlord shall:

(a) Comply with the requirements of applicable building and housing codes materially affecting health and safety;

(b) Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(c) Keep all common areas of the premises in a clean and safe condition;

(d) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by him; and

(e) Supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1 except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

(2) If the duty imposed by paragraph (a) of subsection (1) is greater than any duty imposed by any other paragraph of that subsection, the landlord's duty shall be determined by reference to paragraph (a) of subsection (1).

(3) The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraph (e) of subsection (1) and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) The landlord and tenant of any dwelling unit other than a single family residency may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) The agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) The work is not necessary to cure noncompliance with subsection (1)(a) of this section; and

(c) The agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

SECTION 20. KRS 383.600 IS REPEALED AND REENACTED.

(1) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and KRS 383.505 to 383.715 as to events occurring after written notice to the tenant of the conveyance.

(2) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and KRS 383.505 to 383.715 as to events occurring after written notice to the tenant of the termination of his management.

SECTION 21. KRS 383.605 IS REPEALED AND REENACTED.

A tenant shall:

(1) Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

(2) Keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(3) Dispose from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner;

(4) Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(5) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises;

(6) Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so; and

(7) Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises.

SECTION 22. KRS 383.610 IS REPEALED AND REENACTED.

(1) A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. It is enforceable against the tenant only if:

(a) Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(b) It is reasonably related to the purpose for which it is adopted;

(c) It applies to all tenants in the premises in a fair manner;

(d) It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(e) It is not for the purpose of evading the obligations of the landlord; and

(f) The tenant has notice of it at the time he enters into the rental agreement, or when it is adopted.

(2) If a rule or regulation is adopted after the tenant enters into the rental agreement that works a substantial modification of his bargain it is not valid unless the tenant consents to it in writing.

SECTION 23. KRS 383.615 IS REPEALED AND REENACTED.

(1) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) A landlord may enter the dwelling unit without consent of the tenant in case of emergency.

(3) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and may enter only at reasonable times.

(4) A landlord has no other right of access except:

(a) Pursuant to court order;

(b) As permitted by KRS 383.665 and 383.670(2); or

(c) Unless the tenant has abandoned or surrendered the premises.

SECTION 24. KRS 383.620 IS REPEALED AND REENACTED.

Unless otherwise agreed, a tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement may require that the tenant notify the landlord of any anticipated extended absence from the premises in excess of seven (7) days no later than the first day of the extended absence.

SECTION 25. KRS 383.625 IS REPEALED AND REENACTED.

(1) Except as provided in KRS 383.505 to 383.715, if there is a material noncompliance by the landlord

with the rental agreement or a noncompliance with KRS 383.595 materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied in fourteen (14) days, and the rental agreement shall terminate as provided in the notice subject to the following:

(a) If the breach is remediable by repairs, the payment of damages or otherwise and the landlord adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate by reason of the breach.

(b) If substantially the same act or ommission which constituted a prior noncompliance covered by subsection (1) of which notice was given recurs within six (6) months, the tenant may terminate the rental agreement upon at least fourteen (14) days written notice specifying the breach and the date of termination of the rental agreement.

(c) The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

(2) Except as provided in KRS 383.505 to 383.715, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement of KRS 383.595.

(3) The remedy provided in subsection (2) is in addition to any right of the tenant arising under subsection (1) of this section.

(4) If the rental agreement is terminated, the landlord shall return all prepaid rent.

SECTION 26. KRS 383.630 IS REPEALED AND REENACTED.

(1) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in KRS 383.590, rent abates until possession is delivered and the tenant may:

(a) Terminate the rental agreement upon at least five (5) days' written notice to the landlord and upon termination the landlord shall return all prepaid rent and damage fee; or

(b) Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or any person wrongfully in possession and recover the damages sustained by him.

(2) If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than three (3) months' periodic rent or threefold the actual damages sustained, whichever is greater, and reasonable attorney's fees.

SECTION 27. KRS 383.635 IS REPEALED AND REENACTED.

(1) If the landlord willfully and materially fails to comply with the rental agreement or fails to comply with KRS 383.595 and such noncompliance materially affects health and safety and the reasonable cost of compliance is less than one hundred dollars ($100), or an amount equal to one-half (1/2) of the monthly rent, whichever amount is greater, the tenant may notify the landlord of his intention to correct the condition at the landlord's expense. If the landlord willfully fails to comply within fourteen (14) days after being notified by the tenant in writing or as promptly as conditions require in case of emergency, the tenant may cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement for the work actually done and for which the tenant has paid in full, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection.

(2) A tenant may not repair at the landlord's expense if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

SECTION 28. KRS 383.640 IS REPEALED AND REENACTED.

(1) If, contrary to the rental agreement of KRS 383.595, the landlord willfully fails to supply heat, running water, hot water, electric, gas, or other essential service, the tenant may give written notice to the landlord specifying the breach and may:

(a) Procure reasonable amounts of heat, hot water, running water, electric, gas, and the essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

(c) Procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

(2) In addition to a remedy provided in paragraph (c) of subsection (1) the tenant may recover reasonable attorney's fees.

(3) If the tenant proceeds under this section, he may not proceed under KRS 383.625 or 383.635 as to that breach.

(4) Rights of the tenant under this section do not arise until he has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent.

SECTION 29. KRS 383.645 IS REPEALED AND REENACTED.

(1) In an action for possession based upon nonpayment of the rent or in an action for rent when the

tenant is in possession, the tenant may counterclaim for any amount he may recover under the rental agreement of KRS 383.565. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall be paid first from the money paid into court, and the balance by the other party. If no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith, the landlord may recover reasonable attorney's fees.

(2) In an action for rent when the tenant is not in possession, he may counterclaim as provided in subsection (1) but is not required to pay any rent into court.

SECTION 30. KRS 383.650 IS REPEALED AND REENACTED.

(1) If the dwelling unit or premises are damaged or destroyed by fire or casualty or so injured by the elements, act of God, or other cause to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant or the landlord may terminate the rental agreement upon fourteen (14) days notice; however, the tenant may immediately vacate the premises.

(2) If the rental agreement is terminated under provision of this section the landlord shall return all the unused portion of the prepaid rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the casualty.

SECTION 31. KRS 383.655 IS REPEALED AND REENACTED.

If a landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not more than three (3) months periodic rent and a reasonable attorney's fee. If the rental agreement is terminated, the landlord shall return all prepaid rent.

SECTION 32. KRS 383.660 IS REPEALED AND REENACTED.

(1) Except as provided in KRS 383.505 to 383.715, if there is a material noncompliance by the tenant with the rental agreement or a material noncompliance with KRS 383.605 or 383.610, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than fourteen (14) days after receipt of the notice. If the breach is not remedied in fifteen (15) days, the rental agreement shall terminate as provided in the notice subject to the following. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six (6) months, the landlord may terminate the rental agreement upon at least fourteen (14) days' written notice specifying the breach and the date of termination of the rental agreement.

(2) If rent is unpaid when due and the tenant fails to pay rent within seven (7) days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period, the landlord may terminate the rental agreement.

(3) Except as provided in KRS 383.505 to 383.715, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or KRS 383.605 or 383.610. If the tenant's noncompliance is willful the landlord may recover actual damages and reasonable attorney's fees.

SECTION 33. KRS 383.665 IS REPEALED AND REENACTED.

If there is noncompliance by the tenant with KRS 383.605 or 383.610 materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen (14) days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date periodic rent is due, or if the rental agreement has terminated, for immediate payment.

SECTION 34. KRS 383.670 IS REPEALED AND REENACTED.

(1) If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven (7) days as required in KRS 383.620 and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

(2) During any absence of the tenant in excess of seven (7) days, the landlord may enter the dwelling unit at times reasonably necessary.

(3) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, it terminates as of the date of the new tenancy. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

SECTION 35. KRS 383.675 IS REPEALED AND REENACTED.

Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by him that varies from the terms of the rental agreement constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

SECTION 36. KRS 383.680 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before August 1, *1984* [~~1974~~].

(2) Distraint for rent is abolished.

SECTION 37. KRS 383.685 IS REPEALED AND REENACTED.

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in KRS 383.660(3).

SECTION 38. KRS 383.690 IS REPEALED AND REENACTED.

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, electric, running water, hot water, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in KRS 383.505 to 383.715.

SECTION 39. KRS 383.695 IS REPEALED AND REENACTED.

(1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least seven (7) days before the termination date specified in the notice.

(2) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty (30) days before the periodic rental date specified in the notice.

(3) The landlord or the tenant may terminate a tenancy begun upon the termination of a written lease by written notice given to the other at least ten (10) days before the termination date specified in the notice, except that if the tenant fails to pay rent within ten (10) days after the day it becomes due, the landlord may terminate the tenancy at any time without notice.

(4) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than three (3) months' periodic rent or threefold the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, KRS 383.565(3) applies.

SECTION 40. KRS 383.700 IS REPEALED AND REENACTED.

(1) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fee.

(2) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or terminate the rental agreement. In either case the tenant may recover actual damages and reasonable attorney's fees.

SECTION 41. KRS 383.705 IS REPEALED AND REENACTED.

(1) Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

(a) The tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;

(b) The tenant has complained to the landlord of a violation under KRS 383.595;

(c) The tenant has organized or become a member of a tenant's union or similar organization.

(2) If the landlord acts in violation of subsection (1) of this section, the tenant is entitled to the remedies provided in KRS 383.655 and has a defense in any retaliatory action against him for possession. In an action by or against the tenant, evidence of a complaint within one year before the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(3) Notwithstanding subsections (1) and (2) of this section, a landlord may bring an action for possession if:

(a) The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in his household or upon the premises with his consent;

(b) The tenant is in default in rent; or

(c) Compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit.

(4) The maintenance of an action under subsection (3) of this section does not release the landlord

from liability under KRS 383.625(2).

SECTION 42. KRS 383.715 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

[~~(1) The provisions of KRS 383.505 to 383.715 shall apply only to Counties containing cities of the First Class and Urban-County Governments.~~

~~(2)~~] KRS 383.505 to *383.710* [~~383.715~~] shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."

Section 43. The following KRS sections are repealed:
383.530 Territorial application.
383.710 Validity of existing transactions.

SB 11, AN ACT relating to cemetery lots.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "cemetery lot" is a lot containing one (1) or more grave spaces.

(2) An officer of the cemetery may cause to be filed, on behalf of the cemetery an action in the circuit court of the county where the cemetery is located requesting that the burial rights in the unused portion of the lots in question be deemed abandoned and that the cemetery be authorized to sell such rights upon entry of the court's judgment. The defendants in the action shall be the unknown heirs of the original owner of the burial rights in the lots in question.

(3) The petition shall include the following:
(a) The name of the original owner of the burial rights in the lots in question.
(b) The name of all persons buried in the lots and the date of burial, if known.
(c) The name, address and telephone number of the cemetery office.
(d) An affidavit by the petitioner that:
1. No person has been buried in the cemetery lots in question for a period of at least one hundred (100) years; and
2. The identity of any owner of the burial rights in the lot in question or any heir of the owner is unknown to any officer or employe of the cemetery and not discoverable after a good faith attempt by an officer or employe to identify such owner.

(4) Service of process shall be by warning order attorney, appointed by the court pursuant to CR 4.07.

(5) If the court finds the allegations set forth in paragraph (d) of subsection (3) of this section to be true, the court shall enter judgment deeming the burial rights in the lots in question abandoned and authorizing the cemetery to sell such rights.

(6) No judgment shall be entered declaring burial rights abandoned if an owner or heir of a cemetery lot has filed with the cemetery a statement in writing directing that certain grave spaces not be used.

The Committee Amendment No. 1 to **SB 11** is as follows:

Amend printed copy of **SB 11** on page 2, line 8, by inserting after "*owner*" and before the period the following "*or heir*".

Motions, Petitions, and Communications

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 119,** by Representative LeMaster:

Amend printed copy of Committee Substitute to **HB 119** on page 2, line 17 by deleting "*and the Kentucky state police*".

Floor Amendment No. 1 to **HB 127,** by Representative Mann:

Amend printed copy of Committee Substitute to **HB 127** on page 1, line 19, after the word "results" add the following: "*and detailed analysis with an interpretation by the department*".

Floor Amendment No. 1 to **HB 152,** by Representative Guenthner:

Amend printed copy of **HB 152** on page 1, line 5, by inserting after the word "*information*", but before the colon, the following: "*as it relates to that individual insurer*".

Floor Amendment No. 1 to **HB 411,** by Representative Priddy:

Amend printed copy of **HB 411** on page 2, line 13, by inserting the following language after line 13, "*(1) For any annexation ordinance introduced or proposed by any city to January 1, 1980,*";

on page 2, line 17, by inserting the following language after line 17, "*(2) For any annexation ordinance introduced or proposed by any city or any legislative body thereof since January 1, 1980, the provisions of KRS 81A.400 to 81A.470 shall apply in any annexation proceeding in which the annexing city has not adopted a valid final annexation ordinance by July 15, 1984.*"

Representative Williams moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Williams moved the adoption of the following **HR 55:**

HR 55, A RESOLUTION adjourning the House of Representatives in honor of President Ronald Reagan.

WHEREAS, the office of the President of the United States of America is the most noble and prestigious office any politican can hold; and

WHEREAS, the presidency places extreme and rigorous demands upon the officeholder; and

WHEREAS, Ronald Reagan, fortieth president of the United States, is currently enjoying the third anniversary of his inauguration; and

WHEREAS, a native of Dixon, Illinois, President Ronald Reagan is celebrating his 73rd birthday; and

WHEREAS, the oldest individual to ever be elected to the presidency, Ronald Reagan is in impeccable health;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House proudly hails and congratulates President Ronald Reagan upon the celebration of his 73rd birthday.

Section 2. That when this honorable body does adjourn this day, Wednesday, February 8, 1984, it does so in honor of President Ronald Reagan, who is 73 years young today.

Section 3. That the clerk of the House is directed to transmit a copy of this resolution to President Ronald Reagan.

Representative Van Horn moved that **HR 55** be laid on the table.

On the roll call the vote was yeas 21-Barrows, Bennett, Blevins, Clapp, Crupper, Donnermeyer, Dunn, Gray, T. Jones, List, Mann, McBee, Meyer, Noe, Petty, Priddy, Richards, F. Smith, Stumbo, Van Horn, Yates. Nays 35-Allen, P. Clark, Cline, Craddock, Cyrus, Ellington, Endicott, Ford, Freibert, Fryman, Guenthner, Harper, Heleringer, Holbrook, Holloway, Johnson, Layman, Lefevers, Lile, Little, Long, Maggard, McElroy, McNutt, Moore, Noland, Overstreet, Pearman, Rapier, Rattliff, Riner, Robinson, Todd, Turner, Williams.

The motion that **HR 55** be laid on the table was rejected.

Representative T. Jones moved that the rules be suspended to amend **HR 55** to change the name from President Reagan to Representative Kidd.

The motion that the rules be suspended was adopted.

Representative T. Jones moved the adoption of the amendment to **HR 55.**

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, February 9, 1984.

On the roll call the vote was yeas 74-Arnold, Bendl, Blevins, Bronger, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Harper, Head, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, List, Little, Long, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 13-Allen, Barrows, Endicott, Ford, Hancock, Heleringer, Holbrook, Holloway, Layman, Lile, Moore, Overstreet, Todd.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 9, 1984

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Brother Richard Bridges, First Baptist Church, Bowling Green, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Caldwell and Overstreet.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 8, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 45, SB 163, SB 165,** and **HB 22.**

Introduction of Bills and Resolutions

HB 590, by Representative Donnermeyer: AN ACT relating to mechanics' and materialmen's liens.

HB 591, by Representatives Freibert and List: AN ACT relating to group insurance for local boards of education.

HB 592, by Representative Mann: AN ACT relating to suspension of teaching contracts.

HB 593, by Representatives Farrow and Arnold: AN ACT relating to the use of court costs for county jails.

HB 594, by Representatives Yates and L. Clark: AN ACT relating to credit unions.

HR 56, by Representatives Turner and B. Richardson: A RESOLUTION adjourning the House in honor and memory of James Paul Carter.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 578, HB 584, HB 585, SB 124.**

Banking and Insurance: **HB 587, HB 589.**

Energy: **HB 588, SB 14.**

Judiciary-Civil: **HB 573, HB 574, HB 580, HB 582, HB 583.**

Natural Resources and Environment: **HB 576, HB 577.**

State Government: **HB 575, HB 579, HB 581, HB 586, SB 116, SB 137.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Health and Welfare: **HB 33, HB 98, HB 417, HB 418, HB 483,** and **HB 426.**

Report of Committees

The Committee on Rules reported **HB 152, HB 154, HB 273, HB 335, HB 446, HB 466, SB 51, HB 309, HB 303, HB 119,** and **HB 411** have been posted for passage in Orders of the Day, February 10, 1984.

The Committee on Rules reported **HB 203, HB 486,** and **HB 336** have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Banking and Insurance reported **HB 29** with Committee Amendment attached thereto, and **HB 434** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 29, AN ACT relating to banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

No bank shall collect a fee or charge from any of its customers for failure to maintain a minimum balance in a checking account.

The Committee Amendment No. 1 to **HB 29** is as follows:

Amend printed copy of **HB 29,** on page 1, line 3, by inserting "*(a)*" before "*No*";

Page 1, after line 5, by inserting:

"*(b) A bank shall be permitted to charge a reasonable service charge on each check written on a limited account of less than ten (10) checks per month.*"

HB 434, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.5-160 is amended to read as follows:

(1) No health insurance contracts, plans or policies delivered or issued for delivery in the state shall provide coverage for elective abortions except by an optional rider for which there must be paid an additional premium. For purposes of this section, an "elective abortion" means an abortion for any reason other than to preserve the life of the female upon whom the abortion is performed.

(2) This section shall be applicable to all contracts, plans or policies of:

(a) All health insurers subject to subtitle 17 of KRS Chapter 304; and

(b) All group and blanket health insurers subject to subtitle 18 of KRS Chapter 304; and

(c) All nonprofit hospital, medical, surgical, dental and health service corporations subject to subtitle 32 of KRS Chapter 304; and

(d) All health maintenance organizations subject to subtitle 38 of KRS Chapter 304; and

(e) Any provision of medical, hospital, surgical and funeral benefits and of coverage against accidental death or injury, when such benefits or coverage are incidental to or part of other insurance described in KRS 304.5-070(1)*; and*

(f) All employers who provide health insurance for employes on a self-insured basis.

The Committee on Education reported **HB 87** with Committee Substitute attached thereto, **HB 530,**

SB 19 and Committee Amendments attached thereto, and **SB 89** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 87, AN ACT relating to instruction for gifted and talented students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 158.600 TO 158.620 IS CREATED TO READ AS FOLLOWS:

An advisory council for gifted and talented education is created and attached to the state board of education to develop and to recommend to the superintendent of public instruction and the state board of education a program of instruction and methods of operation for gifted and talented programs in the Commonwealth.

(1) The advisory council shall be composed of nine (9) voting members appointed by the governor and two (2) non-voting, ex-officio members:

(a) Two (2) members shall be superintendents of local school districts;

(b) Two (2) members shall be teachers within local school districts, one (1) who is a gifted and talented teacher in an elementary or secondary school, and one (1) who is a teacher in a regular classroom program;

(c) Two (2) members shall be professors of education, not from the same institution, one (1) a professor of gifted and talented education and one (1) a professor with expertise in tests and measurements, from Kentucky public universities.

(d) One (1) member shall be a parent advocate of gifted and talented education;

(e) One (1) member shall be a parent-at-large;

(f) One (1) member shall be a gifted and talented program coordinator from a Kentucky school district; and

(g) The chairman of the Kentucky state board of education and the superintendent of public instruction shall be ex-officio, non-voting members.

(2) Each individual appointment shall be for a four (4) year term which shall begin on July 15, 1984. Members may serve successive terms if renominated and reappointed in the manner prescribed for membership. Vacancies shall be filled as they occur in a manner consistent with the provisions for initial appointments.

(3) At the first meeting held on or after July 1 of each year, a chairman shall be elected by and from the membership. An executive secretary appointed by the superintendent of public instruction shall keep records of proceedings and shall prepare approved recommendations for transmission to the superintendent, the state board of education and other appropriate agencies.

(4) The council shall meet at least quarterly during each year and may meet more often at the call of the chairman.

(5) Personnel of the department of education assigned to the gifted and talented program shall serve as staff to the council. The superintendent of public instruction may contract for additional consultation and technical expertise outside the department of education as needed.

(6) All operating expenditures of the council shall be approved by the state board of education and paid through funds budgeted to the gifted and talented education program. Members shall be reimbursed for actual expenses for attendance at council meetings and for other actual expenses incurred in carrying out their official duties.

(7) The advisory council for gifted education shall support the provisions of KRS 158.600 through KRS 158.620. The powers and duties of the advisory council shall be to:

(a) Define the goals and objectives for the instruction of gifted and talented students in the Commonwealth;

(b) Define the student populations who would benefit by the instruction of a gifted and talented program;

(c) Set priorities for student populations who are most in need of instruction, if funding does not permit total service;

(d) Define the identification criteria and methods which will best delineate students who are to participate in the program from the rest of the elementary and secondary student population;

(e) Determine through a research program the experimental program approaches most effective in attaining the goals and objectives stated by the council and the program's which are most cost-efficient for Kentucky's schools;

(f) Advise and approve the design of methodologies by which this research program shall be achieved

by the department of education;

(g) Determine the cost of the various gifted and talented instructional services and the best fund allocation method to be used in funding the program;

(h) Design a statewide implementation plan which integrates the advisory council's recommendations into local school district's programs;

(i) Advise and approve a monitoring and ongoing evaluation system developed by the department of education which assure implementation of successful program components; and

(j) Recommend to the state board of education and the superintendent of public instruction program grant allotments for approval, including the maximum amount of grants and the amount of each grant based on program approach, number and type of students in the proposed program, grades served and prior years' evaluation results.

(8) The advisory council shall report its activities to the state board of education by way of its meeting minutes and shall adopt a workplan within the first six (6) weeks of its operations; report quarterly to the state board, the governor and the legislative research commission, concerning its scheduled progress; submit an annual written report to the state board of education, the governor and the legislative research commission; and submit a final written report to the general assembly at the end of each biennium which shall include, but not be limited to, all areas of discovery as outlined in subsection (7) of this section.

Section 2. KRS 158.610 is amended to read as follows:

(1) It is the intent of the general assembly in enacting this legislation to permit the state board *of* [~~for elementary and secondary~~] education, upon recommendation of the *advisory council for gifted and talented education to the* superintendent of public instruction *and the state board of education,* to authorize a local board of education to submit applications to operate an experimental program for gifted and talented students in the event that units for gifted and talented programs as provided for in KRS 157.360 are not included in the executive budget.

(2) The state board *of* [~~for elementary and secondary~~] education, upon recommendation of the *advisory council for gifted and talented education to the* superintendent of public instruction *and the state board of education,* shall adopt regulations relating to requirements to be met by local school districts to implement gifted and talented classroom unit programs according to the provisions of KRS 158.600 to 158.620 and 157.360 for their proper administration, including but not limited to, eligibility and admission of pupils, curriculum, class size limitations, teacher qualifications and program evaluation or when applying for funds to operate an experimental gifted and talented students program.

(3) The state board *of* [~~for elementary and secondary~~] education, upon recommendation *of* [~~by~~] the *advisory council for gifted and talented education to the* superintendent of public instruction *and the state board of education,* shall determine annually which of the applications submitted shall be funded for the following year in the event gifted and talented program units are not included in the executive budget.

SECTION 3. A NEW SECTION OF KRS 158.600 TO 158.620 IS CREATED TO READ AS FOLLOWS:

(1) The department of education shall develop and implement an evaluation procedure to monitor the activities of gifted and talented programs, based on recommendations from the advisory council for gifted and talented education. This evaluation procedure shall be composed of two components:

(a) A program evaluation component to determine the needs of students and the impact of the program on these needs, to determine the immediate and long-term effects of the program on student performance, including, but not limited to, academic performance, cognitive abilities, retention rates, personal and social development, and career accomplishments, and to determine effective and cost-efficient program approaches and curriculum, and to determine effective and efficient student identification methods; and

(b) A monitoring and oversight component to provide information on the operation of local programs, information on their compliance with program guidelines and requirements, and feedback for ongoing improvement of local programs and the statewide program.

(2) Local school districts which receive funds from the state for a gifted and talented elementary or secondary school program shall develop evaluation procedures according to guidelines issued by the department of education. Such procedures shall be formalized and approved by the department and shall include:

(a) Subjective and objective indicators of effects related to the identified needs of the students;
(b) Formal evaluations by teachers, students, parents, and administrators;
(c) Estimates of their cost-effectiveness; and
(d) A formal report to the state department of education.

The Committee Substitute to **HB 87** is as follows:

HB 87, AN ACT relating to instruction for gifted and talented students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 158.600 TO 158.620 IS CREATED TO READ AS FOLLOWS:

An advisory council for gifted and talented education is created and attached to the state board of education to develop and to recommend to the superintendent of public instruction and the state board of education a program of instruction and methods of operation for gifted and talented programs in the Commonwealth.

(1) The advisory council shall be composed of nine (9) voting members appointed by the governor and two (2) non-voting, ex-officio members:

(a) Two (2) members shall be superintendents of local school districts;

(b) Two (2) members shall be teachers within local school districts, one (1) who is a gifted and talented teacher in an elementary or secondary school, and one (1) who is a teacher in a regular classroom program;

(c) Two (2) members shall be professors of education, not from the same institution, one (1) a professor of gifted and talented education and one (1) a professor with expertise in tests and measurements, from Kentucky public universities.

(d) One (1) member shall be a parent advocate of gifted and talented education;

(e) One (1) member shall be a parent-at-large;

(f) One (1) member shall be a gifted and talented program coordinator from a Kentucky school district; and

(g) The chairman of the Kentucky state board of education and the superintendent of public instruction shall be ex-officio, non-voting members.

(2) The powers and duties of this advisory council shall exist for a period of two (2) years beginning July 15, 1984. Continuation beyond this initial two (2) year period shall be contingent upon re-creation by the general assembly. The program review and investigations committee shall review the activities and accomplishments of this advisory council and the gifted and talented program prior to the next regular session of the general assembly. This committee shall make recommendations to the general assembly regarding the need for continuance of the council, changes in purpose and functions, changes in composition, and changes in appropriations.

(3) Individual appointments to the council shall be made for a two (2) year period beginning July 15, 1984. Members may be reappointed to the council for successive terms if the council is re-created by the general assembly. Vacancies shall be filled by the governor as they occur in a manner consistent with the provisions for initial appointment.

(4) At the first meeting of the council, a chairman shall be elected by and from the membership. An executive secretary appointed by the superintendent of public instruction shall keep records of proceedings and shall prepare approved recommendations for transmission to the superintendent, the state board of education and other appropriate agencies.

(5) The council shall meet at least quarterly during each year and may meet more often at the call of the chairman.

(6) Personnel of the department of education assigned to the gifted and talented program shall serve as staff to the council. The superintendent of public instruction may contract for additional consultation and technical expertise outside the department of education as needed.

(7) All operating expenditures of the council shall be approved by the state board of education and paid through funds budgeted to the gifted and talented education program. Members shall be reimbursed for actual expenses for attendance at council meetings and for other actual expenses incurred in carrying out their official duties.

(8) The advisory council for gifted education shall support the provisions of KRS 158.600 through KRS 158.620. The powers and duties of the advisory council shall be to:

(a) Define the goals and objectives for the instruction of gifted and talented students in the Commonwealth;

(b) Define the student populations who would benefit by the instruction of a gifted and talented program;

(c) Set priorities for student populations who are most in need of instruction, if funding does not permit total service;

(d) Define the identification criteria and methods which will best delineate students who are to participate in the program from the rest of the elementary and secondary student population;

(e) Determine through a research program the experimental program approaches most effective in attaining the goals and objectives stated by the council and the program's which are most cost-efficient for Kentucky's schools;

(f) Determine the methods by which this research program shall be achieved by the department of

education;

(g) Determine the cost of the various gifted and talented instructional services and the best fund allocation method to be used in funding the program;

(h) Design a statewide implementation plan which integrates the advisory council's recommendations into local school district's programs;

(i) Determine a monitoring and ongoing evaluation system to be developed by the department of education which will assure implementation of successful program components; and

(j) Recommend to the state board of education and the superintendent of public instruction program grant allotments for approval, including the maximum amount of grants and the amount of each grant based on program approach, number and type of students in the proposed program, grades served and prior years' evaluation results.

(9) The advisory council shall report its activities to the state board of education by way of its meeting minutes and shall adopt a workplan within the first six (6) weeks of its operations; report quarterly to the state board, the governor and the legislative research commission, concerning its scheduled progress; submit an annual written report to the state board of education, the governor and the legislative research commission; and submit a final written report to the general assembly at the end of each biennium which shall include, but not be limited to, all areas of discovery as outlined in subsection (8) of this section.

Section 2. KRS 158.610 is amended to read as follows:

(1) It is the intent of the general assembly in enacting this legislation to permit the state board *of* [~~for elementary and secondary~~] education, upon recommendation of the *advisory council for gifted and talented education to the* superintendent of public instruction *and the state board of education*, to authorize a local board of education to submit applications to operate *a* [~~an experimental~~] program for gifted and talented students in the event that units for gifted and talented programs as provided for in KRS 157.360 are not included in the executive budget.

(2) The state board *of* [~~for elementary and secondary~~] education, upon recommendation of the *advisory council for gifted and talented education to the* superintendent of public instruction *and the state board of education*, shall adopt regulations relating to requirements to be met by local school districts to implement gifted and talented classroom unit programs according to the provisions of KRS 158.600 to 158.620 and 157.360 for their proper administration, including but not limited to, eligibility and admission of pupils, curriculum, class size limitations, teacher qualifications and program evaluation or when applying for funds to operate an experimental gifted and talented students program.

(3) The state board *of* [~~for elementary and secondary~~] education, upon recommendation *of* [~~by~~] the *advisory council for gifted and talented education to the* superintendent of public instruction *and the state board of education*, shall determine annually which of the applications submitted shall be funded for the following year in the event gifted and talented program units are not included in the executive budget.

SECTION 3. A NEW SECTION OF KRS 158.600 TO 158.620 IS CREATED TO READ AS FOLLOWS:

(1) The department of education shall develop and implement an evaluation procedure to monitor the activities of gifted and talented programs, based on recommendations from the advisory council for gifted and talented education. This evaluation procedure shall be composed of two components:

(a) A program evaluation component to determine the needs of students and the impact of the program on these needs, to determine the immediate and long-term effects of the program on student performance, including, but not limited to, academic performance, cognitive abilities, retention rates, personal and social development, and career accomplishments, and to determine effective and cost-efficient program approaches and curriculum, and to determine effective and efficient student identification methods; and

(b) A monitoring and oversight component to provide information on the operation of local programs, information on their compliance with program guidelines and requirements, and feedback for ongoing improvement of local programs and the statewide program.

(2) Local school districts which receive funds from the state for a gifted and talented elementary or secondary school program shall develop evaluation procedures according to guidelines issued by the department of education. Such procedures shall be formalized and approved by the department and shall include:

(a) Subjective and objective indicators of effects related to the identified needs of the students;
(b) Formal evaluations by teachers, students, parents, and administrators;
(c) Estimates of their cost-effectiveness; and
(d) A formal report to the state department of education.

HB 530, AN ACT relating to school district finance reporting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:
160.464 School board to brief members of General Assembly (counties of 300,000).

SB 19, AN ACT relating to certification of school employes and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the state board *of* [~~for elementary and secondary~~] education. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board *of* [~~for elementary and secondary~~] education [~~through the superintendent of public instruction~~].

(2) In the case of nontax supported schools, standards for teacher certification shall provide for the certification without further educational requirements[~~,~~] of any administrator, supervisor, or teacher who has *earned* [~~attended, and received~~] a bachelor's degree from[~~,~~] a standard college or university.

(3) Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board of education for the preparation of teachers and other school personnel, the curricula prescribed by the Kentucky council on teacher education and certification and approved by the state board of education for the certificates.

(4) Effective January 1, 1985, initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the state board of education and shall measure communication skills, general knowledge, professional education concepts and knowledge in the specific teaching field of the applicant. The state board of education shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and the approved teacher preparation program, a certificate valid for one (1) year shall be issued.

(5) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the state board of education. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The department of education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(6) Effective January 1, 1985, all new teachers and out of state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one-year internship. The teacher shall be a full-time employe with supervision, assistance, and assessment during the one-year internship. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility and benefits for single salary experience increments. Upon successful completion of the beginning teacher program the one-year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by state board of education regulations.

(7) The beginning teacher committee shall be composed of three (3) persons who have received special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (9) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher training institution to be appointed by the president of that institution. In the event the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. The resource teacher shall be appointed by the Department of Education from a pool of qualified resource teachers. Priority shall be given to resource teachers with the same certification as the teacher intern in the following order: (1) teachers in the same school, (2) teachers in the same district, and (3) teachers statewide. The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be

provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(8) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure; be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(9) By contract with teacher education institutions in the Commonwealth, the superintendent of public instruction shall provide training for persons who will be serving on the beginning teacher committees.

(10)[~~(4)~~] The state board *of* [~~for elementary and secondary~~] education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the state board *of* [~~for elementary and secondary~~] education and are equivalent to [~~any or all~~] the curricula prescribed for the state institutions for the issuance of certificates [~~to students of the state institutions,~~] and when the institution has [~~otherwise~~] met the terms and conditions provided in KRS 161.010 to 161.120. Any student [~~of such institution~~] who has completed any of these curricula or the equivalent thereof, as approved by the state board *of* [~~for elementary and secondary~~] education, and who [~~in addition thereto~~] has completed the prescribed requirements for the issuance of certificates for teaching to students of the state institutions may[~~, by the state board for elementary and secondary education,~~] be granted a certificate for teaching of the same validity and tenure as certificates issued to students completing like requirements in the state institutions.

The Committee Amendment No. 1 to **SB 19** is as follows:

Amend printed copy of **SB 19,** page 5, after line 20, by adding the following:

"*(10) In the event an applicant establishes eligibility for a one-year certificate under the provisions of subsection (4) of this section, but does not become employed on the full-time basis needed to satisfy the one-year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the regulations of the state board of education. The applicant shall remain eligible for the one-year certificate as provided in paragraph (4) and for the opportunity to serve the internship for a period of four (4) years after establishing eligibility. If the internship is not completed within the four (4) year period, the applicant must re-establish eligibility by repeating and passing the testing program in effect for new teachers at that time.*"

Page 5, line 21, delete "(10)" and insert "(11)" in lieu thereof.

The Committee Amendment No. 2 to **SB 19** is as follows:

Amend printed copy of **SB 19,** page 3, lines 10 and 13, by deleting "two (2)" and inserting "five (5)" in lieu thereof.

The Committee Amendment No. 3 to **SB 19** is as follows:

Amend printed copy of **SB 19,** page 1, of the title: delete "and making an appropriation therefor."

SB 89, AN ACT relating to the University of Kentucky board of trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen (16) competent citizens of Kentucky appointed by the governor, two (2) members of the teaching faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Four (4) of the sixteen (16) appointed members shall be appointed each year. Three (3) of the appointed members shall be

representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be [~~teaching or research members~~] of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the *faculty* [~~teaching staff~~] of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(5) No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(6) The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed four (4).

Amend printed copy of **SB 89** on page 1, line 6, by placing brackets and strikethroughs before and after the word "teaching"

The Committee on Energy reported **HB 470** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 470, AN ACT relating to utilities in cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.800 is amended to read as follows:

All moneys received from the sale and issuance of bonds shall be used solely to defray the cost of acquiring or improving an electric plant, except that such proceeds may in the discretion of the board also be used for the payment of the interest on the bonds *until such acquisition and improvement is completed and for a period of not more than eighteen (18) months thereafter* [~~during the first two (2) years following the date of issuance of such bonds~~]. The cost of the electric plant shall include all costs of acquisition or improvement, including all preliminary expenses described in KRS 96.730; the cost of acquiring all property, franchises, easements, and rights which, in the judgment of the board, are necessary or convenient; engineering and legal expenses; expenses for estimates of cost and revenues; expenses for plans, specifications and surveys; other expenses incident or necessary to determining the feasibility or practicability of the enterprise; administrative expense; and such other expense as may be incurred in the financing herein authorized, the acquisition or improvement of the electric plant, the placing of such plant in operation, including the creation of a cash working fund, and the performance of the things herein required or permitted in connection therewith.

The Committee on Judiciary-Criminal reported **HB 478** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 478, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed a hearing shall be conducted. In such hearing the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas: Provided, however, that only such evidence in aggravation as the State has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment.

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating Circumstances.

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions.

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, or rape in the first degree, or sodomy in the first degree.

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one person in a public place by means of a destructive device weapon or other device which would normally be hazardous to the lives of more than one person.

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit.

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties.

6. The offender's act or acts of killing were intentional and resulted in multiple deaths.

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties.

(b) Mitigating Circumstances.

1. The defendant has no significant history of prior criminal activity.

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime.

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act.

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime.

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor.

6. The defendant acted under duress or under the domination of another person even though the

duress or the domination of another person is not sufficient to constitute a defense to the crime.

7. At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime.

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence *or as required by KRS 532.030(4)* shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, *or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence,* shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. In all cases unless at least one of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty *or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence,* shall not be imposed.

Section 2. KRS 532.030 is amended to read as follows:

(1) When a person is convicted of a capital offense he shall have his punishment fixed at death, *or at a term of imprisonment for life without benefit of probation or parole until he has served a minimum of twenty-five (25) years of his sentence, or to a sentence of life, or to a term of not less than twenty (20) years* [~~or imprisonment in accordance with KRS 532.035~~].

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with KRS 532.060.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or

(b) A fine authorized by KRS Chapter 534; or

(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

(4) In all cases in which the death penalty may be authorized the judge shall instruct the jury in accordance with subsection (1) of this section. The instructions shall state, subject to the aggravating and mitigating limitations and requirements of KRS 532.025, that the jury may recommend upon a conviction for a capital offense a sentence of death, or a term of imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, or a sentence of life, or to a term of not less than twenty (20) years.

Section 3. KRS 532.035, Sentence for capital offense, is repealed.

The Committee on Business Organizations and Professions reported **HB 435, HB 440,** and **HB 463** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 435, AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.410 is amended to read as follows:

As used in KRS 230.410 to 230.447 (1) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas.

(2) "Appaloosa" means a horse that is registered with the Appaloosa Horse Club of Moscow, Idaho.

(3) "Arabian" means a horse that is registered with the Arabian Horse Registry of America of Denver, Colorado.

Section 2. KRS 230.413 is amended to read as follows:

(1) The Kentucky quarter horse, [~~and~~] Appaloosa *and Arabian* commission shall be an agency independent of state administrative departments.

(2) The commission shall consist of *seven (7)* [~~five (5)~~] persons appointed by the governor. At least one (1) of the members shall have no financial interest in the business or industry regulated. The members of the commission shall hold their offices for a term of four (4) years.

(3) The commission shall biennially make a full report to the general assembly of its proceedings for the two-year period ending December 1 preceding the meeting of the general assembly, and shall embody in the report such suggestions and recommendations as it deems desirable.

(4) The members of the commission shall receive per diem compensation to be established by the

secretary of the finance and administration cabinet. This compensation shall not exceed fifty dollars ($50) per day.

Section 3. KRS 230.417 is amended to read as follows:

(1) The governor shall appoint a secretary of the commission, for a term not exceeding four years.

(2) The secretary shall keep a full record of the proceedings of the commission, preserve at its general office all books, maps, documents and papers entrusted to the commission, and perform such other duties as the commission prescribes.

(3) The secretary shall receive an annual salary which shall be fixed by the commission, and which shall be paid by proportionate contributions of the several quarter horse, [~~or~~] Appaloosa *or Arabian* associations licensed by the commission. The commission, on or before December 1 of each year, shall assess upon each quarter horse, [~~or~~] Appaloosa *or Arabian* association its just proportion of the salary of the secretary.

Section 4. KRS 230.420 is amended to read as follows:

(1) The commission may prescribe the regulations and conditions under which quarter horse, [~~or~~] Appaloosa *or Arabian* races other than Appaloosa *and Arabian* races conducted at thoroughbred race meetings shall be conducted in this state.

(2) An association desiring to conduct quarter horse, [~~or~~] Appaloosa *or Arabian* races may annually apply to the commission for a license. If in the judgment of the commission a proper case for issuance is shown, it may grant the license for a term of one year. Every license shall contain a condition that all quarter horse, [~~or~~] Appaloosa *or Arabian* races or meetings conducted under it shall be subject to the regulations and conditions from time to time prescribed by the commission.

(3) A license shall be revocable by the commission for any violation of it or whenever the continuance of the license is deemed by the commission not conducive to the interests of legitimate racing. If a license is refused or revoked, the commission shall publicly state its reasons for the refusal or revocation and those reasons shall be written in full in the minute book of the commission, which shall at all times be subject to inspection by anyone desiring to inspect it. A refusal of the commission to grant to any quarter horse, [~~or~~] Appaloosa *or Arabian* association a license, or to assign any quarter horse, [~~or~~] Appaloosa *or Arabian* association at least forty days in each year, if desired for quarter horse, [~~or~~] Appaloosa *or Arabian* races or meetings at the track of the association, and the revocation of the license of any association shall be subject to judicial review.

Section 5. KRS 230.423 is amended to read as follows:

(1) No quarter horse, [~~or~~] Appaloosa *or Arabian* race other than an Appaloosa *or Arabian* race conducted at a thoroughbred race meeting licensed by the state racing commission shall be conducted except by an association licensed by the commission.

(2) No person shall operate or participate in any quarter horse, [~~or~~] Appaloosa *or Arabian* race meeting at which quarter horse, [~~or~~] Appaloosa *or Arabian* racing other than Appaloosa *or Arabian* racing conducted at a thoroughbred meeting licensed by the state racing commission is permitted for a prize or stake, unless the race meeting has been licensed under KRS 230.410 to 230.447.

(3) Every quarter horse, [~~or~~] Appaloosa *or Arabian* race not licensed under KRS 230.410 to 230.447 or 230.210 to 230.360 is a public nuisance, and the commission may obtain an injunction against it in the circuit court of the county where the unlicensed race is proposed to take place.

Section 6. KRS 230.427 is amended to read as follows:

(1) An association formed for the purpose of racing and breeding or improving the breed of quarter horse, [~~or~~] Appaloosa *or Arabian* and conducting contests of speed may hold one (1) or more quarter horse, [~~or~~] Appaloosa *or Arabian* race meetings each year.

(2) At such meetings the association or the owners of the horses engaged in the quarter horse, [~~or~~] Appaloosa *or Arabian* races, or others that are not participants in the racing, may contribute prizes or stakes to be contested for, but no person other than the owner of a horse contesting in a quarter horse, [~~or~~] Appaloosa *or Arabian* race shall have any pecuniary interest in a prize or stake contested for in that race, or be entitled to, or receive any portion of the prize or stake after the race has been finished. The whole of the prize or stake shall be allotted in accordance with the terms of the race.

Section 7. KRS 230.437 is amended to read as follows:

No official timer at any quarter horse, [~~or~~] Appaloosa *or Arabian* race shall announce willfully and falsely a slower or faster time than that actually accomplished by a horse, when the result of that race is to constitute a record.

Section 8. KRS 230.440 is amended to read as follows:

No license shall be issued to any individual or association owning or operating a quarter horse, [~~or~~] Appaloosa *or Arabian* track until said individual or association posts a bond to be determined by the commission to cover any indebtedness said individual or association may incur during the days allotted for racing.

Section 9. KRS 230.443 is amended to read as follows:

No quarter horse or Appaloosa foaled by artificial insemination shall be eligible to race under the provisions of KRS 230.410 to 230.447, *but Arabian horses foaled by artificial insemination shall be eligible to race under the provisions of KRS 230.410 to 230.447.*

Section 10. KRS 230.447 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on quarter horse, [~~or~~] Appaloosa *or Arabian* races licensed under the provisions of KRS 230.410 to 230.447 under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.410 to 230.447 to conduct a quarter horse, [~~or~~] Appaloosa *or Arabian* race meeting and only upon the licensed premises and on the dates and hours for which racing has been authorized by the commission. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.410 to 230.447.

(3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at quarter horse race meetings shall be presumed abandoned within the meaning of KRS Chapter 393, if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

HB 440, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) A microbrewery license shall authorize the licensee to perform the following functions:

(a) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at such microbrewery shall not exceed twelve thousand five hundred (12,500) barrels in one (1) year;

(b) Serve on the premises complimentary samples of malt beverages produced by such microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory;

(c) Sell malt beverages produced on the premises of the microbrewery to licensed distributors.

(2) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provisions of KRS 243.180.

(3) In accordance with the provisions of this section, a microbrewery license holder may also hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section.

(4) If a licensed microbrewery is located in dry territory, the provisions of KRS 242.230 to 242.430 shall apply.

(5) This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241, 242, 243 and 244, nor from any rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this section.

Section 2. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1) Brewer's license, per annum	$1,500.00
(2) Microbrewery license, per annum	*$ 250.00*
(3) Distributor's license, per annum	$ 200.00
(4)[~~(3)~~] Retailer's license per annum:	
(a) New applicants	$ 200.00
(b) Renewals	$ 75.00
(5)[~~(4)~~] Dining car license, per annum	$ 100.00
(6)[~~(5)~~] Transporter's license, per annum	$ 25.00
(7)[~~(6)~~] Special temporary license, per month or part of month	$ 12.50
(8)[~~(7)~~] Special off-premises storage license, per annum	$ 25.00

(9)[~~(8)~~] Distributor's storage, per annum...$ 50.00
(10)[~~(9)~~] Special beer transporter's
license, per annum..$ 25.00
(11)[~~(10)~~] Such other special licenses as the state board finds ~~to~~ be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection *(11)*[~~(10)~~] may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

Section 3. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only such licenses may be issued as correspond, in their provisions and the business authorized, to the licenses provided for in subsections (1), (2), (3), (6), (7), (8), (16), (17), (18) and (19) of KRS 243.030 and subsections (1), (2), (3), *(4)* and *(7)*[~~(6)~~] of KRS 243.040. The fees imposed shall not exceed twice the amount of the fees imposed in KRS 243.030 and 243.040 for such licenses, except that the fee for a Sunday distilled spirits and wine retail drink license shall not exceed three hundred dollars ($300), the fee for a malt beverage retailer's license may be fixed at not exceeding two hundred dollars ($200), the fee for a brewer's license shall not exceed five hundred dollars ($500), and the fee for a distiller's license shall not exceed five hundred dollars ($500).

HB 463, AN ACT relating to optometry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of optometric examiners;

(2) "Practice of optometry" means the employment of any means *including* [~~other than the use of drugs, except~~] the administration of [~~diagnostic~~] pharmaceutical agents as authorized in KRS 320.240, *except* [~~medicine or~~] surgery *or injection in examination, diagnosis and treatment of* [~~to examine~~] the human eye *and its appendages*, to determine the visual efficiency of the human eye, or to determine the powers or defects of vision; the prescribing, providing, furnishing, adapting, using or employing lenses, prisms, contact lenses, visual training, orthoptics, ocular exercise or any other means or device *including* [~~other than the use of drugs, except diagnostic~~] pharmaceutical agents as authorized in KRS 320.240, *excluding the use of* [~~medicine or~~] surgery *or injection* for the aid, relief or correction of *the human eye and its appendages* [~~vision~~];

(3) "Visual aid glasses" means eyeglasses, spectacles or lenses designed or used to correct visual defects; Provided, however, That nothing in the provisions of this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of sunglasses designed and used solely to filter out light; and further provided that nothing in this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of completely assembled eyeglasses or spectacles designed and used solely to magnify;

(4) An orthoptic technician is a person who trains and directs individuals to engage in ocular exercises designed to correct visual defects, and shall not be required to be licensed under the provisions of this chapter provided that such training and directions are done pursuant to and under the instructions of a duly licensed physician, osteopath or optometrist and consists solely of visual training, orthoptics or ocular exercises.

Section 2. KRS 320.240 is amended to read as follows:

(1) The board shall meet at least once each year at which time it shall choose from among its members the president, vice-president, and secretary-treasurer. In addition, the board upon call of its officers, may hold meetings at such time as it deems necessary. The secretary-treasurer shall keep a full record of its proceedings which shall be open to inspection at all reasonable times.

(2) The board shall keep a register containing the name, address and license number of every person licensed to practice optometry in this state.

(3) The attorney general shall render to the board such legal services as it may require in carrying out and enforcing the provisions of this chapter.

(4) Subject to and consistent with the provisions of this chapter, the board shall make and promulgate reasonable rules and regulations and do any and all things which it may deem necessary or proper for the effective enforcement of this chapter and for the full and efficient performance of its duties hereunder and the reasonable regulation of the profession of optometry and the practice thereof by licensed

optometrists.

(5) The board shall have a common seal.

(6) The board shall have authority to administer oaths and to require the attendance of witnesses, the production of books, records and papers pertinent to any matters coming before the board by the issuance of process which shall be served and returned in the same manner as in civil actions and for the disobedience of which the board shall have the power to invoke the same rights as are provided in the event of disobedience of a subpoena or subpoena duces tecum in a civil action.

(7) The board shall make rules and regulations governing applicants and applications for registration or license under this chapter and governing the conduct of licensing examinations.

(8) The board shall from time to time accredit schools and colleges teaching optometry, the graduates of which shall be eligible to licensing examinations.

(9) The board shall have the right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter.

(10) The board shall have authority to assist in the prosecution of any violation of this chapter and in the enforcement of any of the provisions of this chapter.

(11) The board shall have such other powers and duties as may be provided in the provisions of this chapter.

(12) The board shall make a report of its proceedings to the governor on or about January 1st of each year, including an accounting of all moneys received and disbursed.

(13) The board may authorize persons engaging in the practice of optometry under the provisions of this chapter to administer diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics applied topically only, but excluding any drug classified as a controlled substance pursuant to KRS Chapter 218A. These pharmaceutical agents shall be applied in diagnostic procedures only as part of an eye examination. The application of such diagnostic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pharmacology, with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye, from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States *department* [~~office~~] of education.

(14) *The board may authorize only those persons who have qualified for use of diagnostic pharmaceutical agents as set out in subsection (13) of this section to utilize and prescribe therapeutic pharmaceutical agents in the examination or treatment of any condition of the eye or its appendages. The utilization or prescribing of therapeutic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pathology and therapy, with particular emphasis on utilization of therapeutic pharmaceutical agents from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on post-secondary accreditation or by the United States department of education. These six (6) semester hours are in addition to the six (6) semester hours required by subsection (13) of this section.*

(15) Any optometrist authorized by the board to utilize diagnostic pharmaceutical agents shall be permitted to purchase for use in the practice of optometry diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics to be applied topically only. *Any optometrist authorized by the board to utilize therapeutic pharmaceutical agents shall be permitted to purchase for use or prescribe in the practice of optometry therapeutic pharmaceutical agents.* Optometrists so authorized by the board to purchase [~~diagnostic~~] pharmaceutical agents shall obtain them from licensed drug suppliers or pharmacists on written orders placed in the same or similar manner as any physician or other practitioner authorized by KRS Chapter 217. [~~to obtain drugs, however,~~] Purchases shall be limited to those pharmaceutical agents specified in this subsection and in subsection (13) of this section, *based upon the authority conferred upon the optometrist by the board consistent with the educational qualifications of the optometrist as set out herein* [~~and shall be on purchase order forms provided by the board~~]. *All purchases of pharmaceutical drugs by optometrists shall be upon purchase order forms provided by the board.*

Section 3. KRS 217.015 is amended to read as follows:

For the purpose of KRS 217.005 to 217.215:

(1) The term "secretary" means the secretary of the cabinet for human resources;
(2) The term "cabinet" means the cabinet for human resources or its designee;
(3) The term "person" includes individual, partnership, corporation, and association;
(4) The term "food" means:
(a) Articles used for food or drink for man or other animals;
(b) Chewing gum; and
(c) Articles used for components of any such article;
(5) The term "drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(c) Articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) The term "device" (except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095) means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(7) The term "cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) The term "official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(9) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper;

(10) The term "immediate container" does not include package liners;

(11) The term "labeling" means all labels and other written, printed or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying such article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual;

(13) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body;

(15) The term "new drug" means:

(a) Any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions;

(16) The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic

establishment;

(18) The term "federal act" means the Federal Food, Drug and Cosmetic Act; (Title 21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq. or amendments thereto);

(19) The term "flour" includes and shall be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) The term "enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) The terms "bread" and "enriched bread" include, and shall be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) The term "filled milk" means any milk, cream or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if such compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) The term "practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering *or prescribing* [~~the diagnostic~~] pharmaceutical agents authorized in subsections (13), [~~and~~] (14) *and (15)* of KRS 320.240;

(24) The term "prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, [~~or~~] veterinarian *or optometric* practitioner, and intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(25) The term "Federal Meat Inspection Act" means the Federal Meat Inspection Act; (Title 21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq. including any amendments thereto);

(26) The term "Federal Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act. (Title 21 U.S.C. Sec. 451 et seq.; public law 85-172; 71 Stat. 441 including any amendments thereto);

(27) The term "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics (15 U.S.C. Sec. 1451, et seq.), and all amendments thereto;

(28) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal insecticide, fungicide and rodenticide act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use) if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity; or

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the food additives amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act (21 U.S.C. Sec. 451 et seq.) or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) The term "color additive" means a material which:

1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the federal act;

(b) The term "color" includes, but is not limited to black, white and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) The term "Federal Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972 (Public Law 92-516) and all amendments thereto;

(33) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(34) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means.

The Committee Amendment No. 1 to **HB 463** is as follows:

Amend printed copy of **HB 463**, on page 2, after line 1, by inserting the following subsection:

(3) *"Appendages" means the eyelids, the eyebrows, the conjunctiva and the lacrimal apparatus.*;

And by renumbering subsequent subsections of Section 1 accordingly.

Calendar

HB 123, HB 245, HB 324, HB 465, SB 39, HB 10, HB 220, HB 375, HB 450, HB 479, HJR 7, HB 224, and **SB 11** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative LeMaster moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Turner moved the adoption of the following Legislative Citation No. 35. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Miss Kela Joy Lyons, the lovely daughter of Mrs. Loretta Lyons and the late Mr. Hade Lyons of Tompkinsville, Kentucky,the current Miss T.E.E.N. of Kentucky and the recent winner of the National Miss T.E.E.N. pageant in Albuquerque, New Mexico on December 3, 1983. This National title was secured by competing with 50 young ladies in the categories of academics, volunteer services, personal interviews, a speech and formal gown appearance. While a student in Monroe County your scholastic achievements brought great pride to your school and community. Your perfect 4.0 grade point average, the Presidencies of the Beta Club, SAE's, the Science Club, and your sophomore, junior and senior classes, as well as being the salutatorian of your senior class, is exemplary of your exceptional leadership abilities. Being named to Who's Who Among American High School students in 1982 and 1983 is especially noteworthy. Your dedication to community service is most commendable and evidenced by your long hours of work at the Shriners Hospital, the Cystic Fibrosis Foundation, the Blood Bank, United Way, and your school and church. As Miss T.E.E.N. you have been awarded a four year scholarship to the University of New Mexico, as well as scholarships from the

Kentucky Farm Bureau for being an outstanding youth, R. J. Reynolds Tobacco Company, Century III for leadership abilities, and for being a Delegate to the United States Senate Youth Program in Washington, D.C. Your academic accomplishments are indicative of your goals. Kela, you are a shining example of American womanhood and you have bestowed great honor and pride to Monroe County and the Commonwealth of Kentucky. This prestigious body salutes and applauds you for all of these honors and extends best wishes as you pursue your career ambitions and may college offer you the greatest of challenges in your future endeavors.

Orders of the Day

HB 127, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of the Committee Substitute to **HB 127.**

Representative Noe moved the adoption of the Floor Amendment No. 1 to **HB 127.**

On the roll call the vote was yeas 19-Barrows, Bennett, Dawahare, Dunn, Gray, T. Jones, Little, Mann, Morris, Noe, Perkins, Petty, Priddy, Stumbo, Thomas, Van Horn, White, Worthington, Yates. Nays 69-Allen, Arnold, Bendl, Blevins, Brinkley, Bronger, Brown, Burch, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lungergan, Maggard, McBee, McElroy, Mcnutt, Moberly, Moore, Nett, Noland, O'Brien, Patrick, Pearman, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomason, Todd, Turner.

Floor Amendment No. 1 to **HB 127** was rejected.

Representative Freibert moved the adoption of the Committee Substitute to **HB 127.** Agreed.

Representative Freibert moved that **HB 127,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Yates. Nays 2-Mann, Worthington.

HB 127, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 127,** by way of Committee Substitute, was passed be recognized and said motion be placed on the table.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 22** had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:32 p.m.)

HB 22 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 196 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 196** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 196 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 196** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 329, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of the Committee Substitute to **HB 329.** Agreed.

Representative Noe moved the adoption of **HB 329,** by way of Committee Substitute.

On the roll call the vote was yeas 88-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, Noland, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 5-Clapp, Ellington, Foster, McNutt, B. Smith.

HB 329, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 329,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 433 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved that **HB 433** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nay 1-Donnermeyer.

HB 433 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 433** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 37, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved that **SB 37** be passed.

Representative O'Brien moved the adoption of the Committee Amendment No. 1 to **SB 37.** Agreed.

Representative O'Brien moved the adoption of the Floor Amendment No. 1 to **SB 37.** Agreed.

Representative Freibert moved the adoption of the Floor Amendment No. 2 to **SB 37.** Agreed.

Representative Clapp moved that **SB 37,** as amended, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 5-Clarke, Freibert, Harper, R. Jones, Meyer.

SB 37, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 37,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

A meeting of the Committee on Rules was announced on adjournment, State Reception Room.

Representative Turner moved the adoption of the following **HR 56:**

HR 56, A RESOLUTION adjourning the House in honor and memory of James Paul Carter.

In loving memory we pay tribute to our departed friend and colleague, James Paul Carter.

WHEREAS, James Paul Carter, a native of Monroe County and a former schoolteacher, has transgressed earthly bounds at the age of 81; and

WHEREAS, James Paul Carter, a commonwealth's attorney for 30 years, served the 29th judicial district since 1951; and

WHEREAS, admitted to the bar in 1926, James Paul Carter was a dedicated public servant, serving as master commissioner of Monroe County Circuit Court for four years; and

WHEREAS, always a leader and upstanding citizen, James Paul Carter was elected to four consecutive terms as Monroe County attorney; and

WHEREAS, the constituents of Monroe County selected James Paul Carter to travel to the State House of Representatives in 1947; and

WHEREAS, James Paul Carter was Republican floor leader in 1949; and

WHEREAS, James Paul Carter was a referee for the Workers' Compensation Board of Kentucky in 1946 and 1947; and

WHEREAS, James Paul Carter was a member of the Legislative Research Commission in 1949;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does extend its utter sense of bereavement and loss upon the death of James Paul Carter and proffers its condolences to his family and loved ones.

Section 2. That when this honorable body does adjourn this day, Thursday, February 9, 1984, it does so in honor and memory of James Paul Carter.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to the family of James Paul Carter.

HR 56 was adopted by voice vote.

Representative Van Horn moved that **SB 57**, as amended, be taken from the Clerk's desk and placed in Orders of the Day for February 10, 1984. Agreed.

Representative Johnson moved that **HB 491** be reassigned to the Committee on Judiciary-Criminal. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members requested that their names be added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 41**; Representative Bronger, **HB 435**; Representative Burnette, **HB 457**; Representative L. Clark, **HB 589**; Representative P. Clark, **HB 486**; Representative Donnermeyer, **HB 420**; **HB 486**; Representative Farrow, **HB 503**; Representative Hancock, **HB 479**; Representative Harper, **HB 324**; Representative Hines, **HB 486**; Representative Kenton, **HB 492**; Representative LeMaster, **HB 153**; Representative Morris, **HB 33**; Representative O'Brien, **HB 486**; Representative B. Smith, **HB 486**; Representative Thomas, **HB 215, HB 385, HB 381, HB 370, HCR 18**; Representative Todd, **HB 455**; Representative White, **HB 385, HB 463, HB 486.**

Representative Bendl requested that her name be withdrawn as a co-sponsor of **HB 377.**

Representative Foster moved the adoption of the following **HR 47**:

HR 47, A RESOLUTION commending and honoring the 1983 Russellville High School football team.

WHEREAS, THE Russellville High School football team capped its 1983 season by defeating Cumberland High School 42-13 to win the state Class A football championship; and

WHEREAS, this marked the Panthers' 4th trip to the finals, and their 2nd Class A championship in 4 years; and

WHEREAS, in advancing to the finals the Panthers displayed uncanny courage and determination by coming from behind to win in 9 of their 13 victories and by snapping the 38 game winning streak of the defending champion, Paris High; and

WHEREAS, the character displayed by the Russellville team exemplifies the best qualities of youth and should be an inspiration and model for every high school student; and

WHEREAS, all Kentuckians are justifiably proud of the accomplishments of head coach Ken Barrett and the Russellville High School football team;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Russellville High School, its football team and coaches be commended and honored for winning the state Class A football championship.

Section 2. That a copy of this resolution be transmitted to Russellville High School.

HR 47 was adopted by voice vote.

Representative O'Brien moved that **HR 48** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Bendl moved that **HB 505** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Guenthner moved that he be recorded as voting "nay" on **HB 317**. Agreed.

Representative Ellington moved that he be recorded as voting "nay" on **HB 317**. Agreed.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HB 110**, by Representative Donnermeyer:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Public agency" means every state or local office, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, and any board, department, committee, subcommittee, ad hoc committee, council or agency thereof; and other body which is created by state or local authority and which derives at least twenty-five percent (25%) of its funds from state or local authority;

(2) "Public record" means all official books, papers, exhibits, cards, tapes, discs, diskettes, recordings, electronic images, electronic optical images or other documentary materials regardless of physical form or characteristics, which are prepared, owned, used, in the possession of, received or retained by a public agency.

On page 1, line 1, by renumbering Section1 as Section 2; and

On page 1, line 16, after the word "*form*" by deleting the following words: *and with the permission of the agency, division or department responsible for their creation; and*

On page 4, line 11, by renumbering Section 2 as Section 3; and

On page 5, line 22, by renumbering Section 3 as Section 4.

Floor Amendment No. 2 to **HB 119**, by Representative Meyer:

Amend printed copy of Committee Substitute to **HB 119** on page 3, line 14, add the following new subsection:

(3) Nothing in this Act shall be construed to apply to lay-offs of police officers. Lay-offs shall be in accordance with statute, ordinance, regulation or contract.

On page 6, line 15, insert the following after the word "*action*": "*except that such records may be maintained indefinitely in a location other than the officers' personnel files, but may not be considered in personnel decisions if maintained beyond the time limits above*

On page 13, line 26, delete the figure "*96*" and insert in lieu thereof: "*95B*"

Floor Amendment No. 2 to **HB 152**, by Representative Guenthner:

Amend printed copy of **HB 152** on page 1, line 5, by inserting after the word "*information*", but before the colon, the following: "*as it relates to that individual insured*"

Floor Amendment No. 3 to **HB 256**, by Representative Burch:

Amend printed copy of **HB 256** on page 35, after line 3, by adding the following new section:

"SECTION 19. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Denturist means a person who constructs, repairs, relines, reproduces, rebases, adjusts, duplicates, supplies, alters, furnishes or fits in the human oral cavity a full or partial removable denture and who also takes impressions, bite registration, tryings, and insertion of or in any part of the human oral cavity

for any of the purposes listed in this subsection.

(2) Denturists shall be exempted from the provisions of this chapter and the activities under subsection (1) of this section shall not constitute the practice of dentistry as defined by this chapter if the patient has had an oral examination by a licensed physician or dentist not more than sixty (60) days prior to the placement of the denture and presents to the denturist an oral health certificate signed by the dentist or licensed physician attesting to such examination."

Floor Amendment No. 4 to **HB 256,** by Representative Robinson:

Amend printed copy of **HB 256** on page 16, by deleting lines 5 through 15 in their entirety;

And on page 26, by deleting lines 4 through 17 in their entirety;

And on page 31, line 21, by deleting "*five*" and "*($5,000)*" and by deleting the bracket around "one" and by deleting the strikethroughs in "one";

And on page 31, line 22, by deleting the brackets around "$1,000" and deleting the strikethrough in "$1,000";

An on page 31, line 23, by deleting "*sixty (60)*" and by deleting the brackets around "thirty (30)" and the strikethrough in "thirty (30)" and the strikethroughs in "thirty (30)";

And on page 31, line 25, by deleting "*ten*" and "*($10,000)*" and by deleting the brackets around "two" and around "(2,000)" and by deleting the strikethroughs in "two" and "($2,000)";

And on page 31, line 26, by deleting "*six (6)*";

And on page 31, line 1, by deleting "*months*" and by deleting the brackets around "sixty (60) days" and by deleting the strikethroughs in "sixty (60) days";

And on page 33, line 18. by deleting "*five*" and "*($5,000)*" and by deleting the brackets around "one" and "*($1,000)*" and by deleting the strikethrough in "one" and "*($1,000)*";

And on page 33, line 19, by deleting "*sixty*";

And on page 33, line 20, by deleting "*(60)*" and by deleting the brackets around "thirty (30)" and by deleting the strikethroughs in "thirty (30)";

And on page 33, line 21, by deleting "*ten*" and by deleting the brackets around "two" and by deleting the strikethroughs in "two";

And on page 33, line 22, by deleting "*($10,000)*" and by deleting the brackets around"($2,000)"; and by deleting the strikethroughs in "($2,000)";

And on page 33, line 23, by deleting "*six (6) months*" and by deleting the opening bracket in front of "sixty" and by deleting the strikethroughs in "sixty";

And on page 33, line 24, by deleting the closing bracket after "days" and by deleting the strikethroughs in "(60) days".

Floor Amendment No. 5 to **HB 256,** by Representative Bennett:

Amend printed copy of **HB 256** on page 16, line 4, by inserting after "order" the following: "*nor prevent any patient from obtaining any full or partial denture, including any repairing or relining or adjusting related thereto, and impressions and fittings therefor from any dental laboratory with a work order from a licensed dentist when the patient so decides*"

After the word "*patients*" by adding "*unless the patient so decides*"

And on page 26, by deleting lines 4 through 17 in their entirety.

Floor Amendment No. 1 to **HB 309**, by Representative Moberly:

Amend printed copy of **HB 309** on page 3, line 13 after the word "receive" insert the following: "*in any one year*"

On page 3, line 13, delete the word "*ten*" and insert the word "*twenty*" in lieu thereof

On page 3, line 14, delete "*(10%)" and insert "(20%)*" in lieu thereof

On page 3, line 14, after the word "*pupils*" insert the following language: "*in kindergarten and grades one (1) through six (6)*"

On page 3, lines 14-16 delete the following:

"*in any one grade and shall not receive an exemption for the same class more than once during a five (5) year period*"

Floor Amendment No. 1 to **HB 446**, by Representative Barrows:

Amend printed copy of **HB 446** on page 1, line 16, by adding after the word "section." the following:

"Section 2. KRS 71.010 is amended to read as follows:

The jailer shall take the oath prescribed by the constitution and execute bond to the Commonwealth with the county judge/executive of the county in which he is elected, with sureties, approved by the county judge/executive. The bond shall be attested by the clerk and entered of record in his office. *Premiums on the bonds of the jailer in counties with a population of under seventy-five thousand (75,000) may be paid with county funds when appropriated by the fiscal court.* No coroner, sheriff, sheriff's deputy, county judge/executive or circuit judge, county or circuit clerk, or attorney shall be surety for the jailer on his official bond."

Floor Title Amendment to **HR 53**, by Representative Williams:

Amended printed copy of **HR 53** the title following "A" to add "CONCURRENT"

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 595, by Representative Stumbo: AN ACT relating to use of public funds.

HB 596, by Representative Kenton: AN ACT relating to sick leave credit.

HB 597, by Representatives Morris and Bruce: AN ACT relating to tobacco seed.

HB 598, by Representatives P. Richardson and Worthington: AN ACT relating to the financing of pollution control facilities and industrial buildings by cities and counties.

HB 599, by Representatives Curd and Morris: AN ACT relating to representative districts and declaring an emergency.

HB 600, by Representatives Mann, O'Brien, and Seum: AN ACT relating to consumer utility activities, and containing an appropriation therefor.

HB 601, by Representatives Brinkley and Stone: AN ACT relating to surface coal mining.

HB 602, by Representatives Gedling, Allen, Reinhardt, and Pearman: AN ACT relating to farming.

HB 603, by Representatives Kenton and Lundergan: AN ACT relating to insurance.

HB 604, by Representatives Deskins and Cyrus: AN ACT relating to workers' compensation.

HB 605, by Representatives Moberly, List, Hancock, Barrows, T. Jones, P. Richardson, Kenton, and Freibert: AN ACT relating to oil and gas.

HB 606, by Representatives Richards and Moberly: AN ACT relating to public school personnel.

HB 607, by Representatives B. Smith, Gedling, Burnette, Pearman, P. Clark, Crupper, P. Richardson, and Farrow: AN ACT relating to vocational education.

HJR 57, by Representative Cyrus: A JOINT RESOLUTION directing the Department of Highways to include the reconstruction and realignment of the Wheeler Hill portion of Kentucky Route #207 in Greenup County in its 1984-1985 construction program.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **SCR 6, SJR 1, SB 79, HB 334, HR 24, HJR 46, HB 427, HR 30, HB 488, HJR 6, HB 581, HB 579, HB 575,** and **HB 553.**

Education: **HB 569.**

Transportation: **HB 178, HB 519.**

The Clerk announced the following Bill has been withdrawn from Committee consideration.

Education: **HB 520.**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 266** with Committee Substitute attached thereto, **HB 365** with Committee Amendment attached thereto, **HB 398,** and **HJR 17,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 266, AN ACT relating to wastewater plant operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.135 is amended to read as follows:

(1) The Kentucky board of certification of wastewater system operators is established. The board shall recommend qualified applicants to the cabinet for certification and perform such other acts as may be necessary to carry out the purposes of this section. Members of the board shall be appointed by the governor. The board shall consist of eight (8) members as follows: one (1) employe of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university, or professional school whose major field is related to wastewater treatment; one (1) non-voting ex officio member representing the cabinet; and five (5) members currently employed as operators holding valid certificates where one (1) of these five (5) shall be an operator of an industrial wastewater system. Board members shall serve for a four (4) year term, except for the first board to which two (2) of the operators will be appointed for four (4) years and three (3) for two (2) years. The first college faculty member will be appointed for two (2) years and the remaining board members will be appointed for four (4) years. The cabinet's representative shall serve as executive secretary and treasurer and be responsible for maintaining records. The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties. At least four (4) existing members of the board shall constitute a quorum.

(2) No person shall have primary responsibility for the operation of any sewage system or portion

thereof whether publicly or privately owned unless he has passed an examination prescribed by the natural resources and environmental protection cabinet which shall determine his skill and competency for such operation and has been issued a certificate to that effect by the cabinet.

(3)[~~(2)~~] No person shall authorize or allow any person who does not hold a certificate issued pursuant to subsection *(2)* [~~(1)~~] of this section to have primary responsibility for the operation of any sewage system or portion thereof.

(4)[~~(3)~~] The cabinet may classify all sewage systems and portions thereof in the manner provided by the rules and regulations of the cabinet with regard to size, type, physical conditions affecting such systems or portions thereof, and the skill, knowledge and experience required for the operation of the system or portion thereof and restrict the application of any certificate issued pursuant to subsection *(2)* [~~(1)~~] of this section to the operation of a sewage system or portion thereof of a specific class.

(5)[~~(4)~~] All applicants for the examination and certification for the operation of any sewage system or portion thereof, whether publicly or privately owned, shall pay a fee of ten dollars ($10.00). The annual certification renewal fee shall be four dollars ($4.00). The fees required under this section shall be payable to the cabinet.

(6) Operators shall have accumulated twelve (12) hours of appropriate board approved training for annual certificate renewal. Such training shall include, but may not be limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. Training hours accumulated in any given year in excess of the minimum requirement necessary for renewal may be carried forward for a period not to exceed two (2) years.

(7) The board may waive any or all of the requirements of subsection (6) of this section for all or portions of an established class of operators.

The Committee Substitute to **HB 266** is as follows:

HB 266, AN ACT relating to wastewater plant operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.135 is amended to read as follows:

(1) *The Kentucky board of certification of wastewater system operators is established. The board shall recommend qualified applicants to the cabinet for certification and perform such other acts as may be necessary to carry out the purposes of this section. Members of the board shall be appointed by the secretary. The board shall consist of eight (8) members as follows: one (1) employe of a municipality who holds the position of either city manager, city engineer, director of public works, or the equivalent thereof; one (1) member who is a faculty member of a college, university, or professional school whose major field is related to wastewater treatment; one (1) non-voting ex officio member representing the cabinet; and five (5) members currently employed as operators holding valid certificates where one (1) of these five (5) shall be an operator of an industrial wastewater system. Board members shall serve for a four (4) year term, except for the first board to which two (2) of the operators will be appointed for four (4) years and three (3) for two (2) years. The first college faculty member will be appointed for two (2) years and the remaining board members will be appointed for four (4) years. The cabinet's representative shall serve as executive secretary and treasurer and be responsible for maintaining records. The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties. At least four (4) existing members of the board shall constitute a quorum.*

(2) No person shall have primary responsibility for the operation of any sewage system or portion thereof whether publicly or privately owned unless he has passed an examination prescribed by the natural resources and environmental protection cabinet *and board* which shall determine his skill and competency for such operation and has been issued a certificate to that effect by the cabinet.

(3)[~~(2)~~] No person shall authorize or allow any person who does not hold a certificate issued pursuant to subsection *(2)* [~~(1)~~] of this section to have primary responsibility for the operation of any sewage system or portion thereof.

(4)[~~(3)~~] The cabinet, *with the advice of the board of certification,* may classify all sewage systems and portions thereof in the manner provided by the rules and regulations of the cabinet with regard to size, type, physical conditions affecting such systems or portions thereof, and the skill, knowledge and experience required for the operation of the system or portion thereof and restrict the application of any certificate issued pursuant to subsection *(2)* [~~(1)~~] of this section to the operation of a sewage system or portion thereof of a specific class.

(5)[~~(4)~~] All applicants for the examination and certification for the operation of any sewage system or portion thereof, whether publicly or privately owned, shall pay a *reasonable schedule of fees and charges*

fixed by regulation [~~fee of ten dollars ($10.00). The annual certification renewal fee shall be four dollars ($4.00)~~]. The fees required under this section shall be payable to the cabinet.

(6) Operators shall have accumulated a minimum number of hours of appropriate board approved training set by regulation for certificate renewal. Such training shall include, but may not be limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. Training hours accumulated in any given year in excess of the minimum requirement necessary for renewal may be carried forward for a period not to exceed two (2) years.

(7) The board may waive any or all of the requirements of subsection (6) of this section for all or portions of an established class of operators.

HB 365, AN ACT relating to fishing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under such licenses and tags, subject to the other provisions of this chapter and subject to regulations adopted under this chapter, are as follows:

(1) Statewide resident sport fishing license which authorizes the holder thereof to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations hereinafter set forth and such additional limitations as the department may from time to time prescribe; this license does not authorize the holder to sell fish;

(2) A short term sport fishing license which may be issued only to a nonresident and which authorizes the holder thereof to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed regulations. This license does not authorize the holder to sell fish;

(3) A resident commercial fishing license and a nonresident commercial fishing license, which authorizes a holder thereof to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by regulation. Such license shall also authorize the holder thereof to sell rough fishes, other than those protected by regulation;

(4) An Ohio River sport fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to take fish from the Ohio River only by any method authorized under a statewide sport fishing license. This license does not authorize the holder to sell fish;

(5) An Ohio River commercial fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to exercise in the Ohio River only the same privileges that may be exercised under a commercial fishing license, as defined in subsection (3), provided that the holder of such license has first obtained a tag or tags for each piece of commercial fishing gear in possession including each seine, net, trap, and line;

(6) A commercial fishing gear tag must be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use including commercial seines, gill nets or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license or an Ohio River commercial fishing license;

(7) Live fish and bait dealer's license, resident and nonresident, which authorizes the holder thereof to sell bait and live fish as may be prescribed by regulation;

(8) Musseling licenses, resident and nonresident, which authorize the holder thereof to take mussels for commercial purposes as may be prescribed by regulation;

(9) A statewide resident hunting license, which authorizes the holder thereof to take or pursue wild animals, wild birds, frogs and turtles with gun, bow and arrow, dog or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and regulations of the department;

(10) A junior statewide hunting license, which may be issued only to a resident of this state, before he has reached his or her sixteenth birthday, but which becomes void on his or her sixteenth birthday, and which authorizes the holder thereof to exercise all the privileges authorized by a statewide hunting license; provided that no junior hunting license shall be issued without the written permission of parent, guardian or person having custody of such person under 16 years of age;

(11) Trapping licenses, resident and nonresident, which authorize the holder thereof to take wild animals by trapping upon his own lands or upon the lands of another person, provided that the holder of such license shall have first obtained a written consent as provided in KRS 150.400 and 150.410;

(12) A taxidermist's license, which authorizes the holder thereof to engage in the business of preparing, stuffing and mounting the skins of wildlife;

(13) A commercial guide's license, which authorizes the holder thereof to guide hunting and fishing parties according to the provisions of the laws and regulations of the department;

(14) Fur buyer's licenses, resident and nonresident, which authorize the holder thereof to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for such license shall state the number of premises to be used and shall display at each a copy of same as furnished by the department except that the commissioner may limit the number of copies furnished and may revoke license for violation;

(15) A fur processor's license, which may be issued only to a resident, a partnership, firm or corporation of this state and which authorizes the holder thereof to buy raw furs when in legal possession for processing, manufacture or retention in cold storage or for resale;

(16) Nonresident sport fishing license which authorizes the holder thereof to perform any act authorized by a resident statewide sport fishing license. This license does not authorize the holder to sell fish;

(17) Nonresident annual hunting license which authorizes the holder thereof to perform any act authorized by a resident statewide hunting license;

(18) A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license is good only for the preserve for which it was issued and shall continue legal only for one (1) year. These licenses shall be issued in ink by the preserve manager, and it becomes his responsibility to see that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, shall have the authority to establish and regulate hunting preserves, either private or commercial;

(19) A big game permit, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorizes the holder thereof to take or pursue deer, bear or wild turkey, in any designated open area of this state, during the open season and according to the provisions of the laws and regulations governing such hunting;

(20) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;

(21) A trout stamp, which may be established by regulation in accordance with KRS 150.225;

(22) A commercial waterfowl permit, which authorizes the holder thereof to establish and operate a commercial waterfowl hunting preserve*;*

(23) A husband and wife shall be issued a joint statewide resident sport fishing license, upon their request, which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be seventy-five percent (75%) of the license fee set by the commission for two statewide resident sport fishing licenses.

The Committee Amendment No. 1 to **HB 365** is as follows:

Amend printed copy of **HB 365** on page 6, line 16, before the word "*husband*" by adding the following language:

"*Effective January 1, 1986, a*" and by deleting the word "*A*"

And on page 6, line 20, after the word "*be*", by deleting the following language: "*seventy-five percent (75%) of*" and inserting in lieu thereof the words "*ten percent (10%) less than*"

HB 398, AN ACT relating to underground mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, the definition of "open pit mine" as set forth in KRS 352.010 shall apply and shall be construed to include limestone mining.

(2) Operators of open pit mines for the commercial extraction of limestone shall obtain a permit from the department before extending their operation, through shafts, slopes, tunnels or ways and openings, beyond the face of the open pit excavation.

(3) The department shall establish by regulation:

(a) Procedures for the issuance, denial, revocation and modification of the permits required by

subsection (2) of this section;

(b) Standards of construction suitable to underground limestone mining operations sufficient to protect adjoining properties from collapse or other damage that may occur as a result of these underground operations;

(c) An inspection policy with regard to operations extracting limestone from underground mines for commercial purposes.

(4) The department shall establish, by regulation, a permit fee reasonably related to the administrative cost of permit processing and inspections required by this section and regulations issued pursuant to this section.

(5) The provisions of KRS 352.430 through 352.500 shall apply to the underground mining of limestone for commercial purposes.

Section 2. KRS 352.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 352.020 to 352.040, subsection (1) of KRS 352.050, KRS 352.060 to 352.090, KRS 352.110 to 352.140 or KRS 352.190 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(2) Any person who violates any of the provisions of subsection (2) or (3) of KRS 352.050, or KRS 352.220 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) Any person who violates any of the provisions of KRS 352.100 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(4) Any person who violates any of the provisions of KRS 352.150 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(5) Any person who shall violate any of the provisions of KRS 352.170 or 352.180 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(6) Any person who violates any of the provisions of KRS 352.201 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(7) Any person who violates any of the provisions of KRS 352.210 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). Any person who violates any regulations validly prescribed by the department pursuant to KRS 352.220, subsection (3) (b) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(8) Any operator, manager, superintendent, mine foreman, fire boss or equipment operator who violates any of the provisions of KRS 352.230 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(9) Any person who violates any of the provisions of KRS 352.241 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(10) Any person who violates any of the provisions of KRS 352.251 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 352.260 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(12) Any person who violates any of the provisions of KRS 352.270 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(13) Any person who violates any of the provisions of KRS 352.320 to 352.380 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(14) Any person who violates any of the provisions of KRS 352.280 to 352.310 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(15) Any person who violates any of the provisions of KRS 352.371 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(16) Any operator, manager, superintendent, mine foreman or employe who violates any of the provisions contained in any mine rules after they have been approved as provided by KRS 352.400 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(17) Any operator, manager, superintendent or mine foreman who violates any of the provisions of KRS 352.410 or 352.420 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(18) Any mine inspector, operator, manager or superintendent who violates any of the provisions of KRS 352.430 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(19) Any operator, manager, superintendent or engineer who violates any of the provisions of KRS 352.450 to 352.480 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(20) Any owner, tenant, company, corporation, manager, engineer mine foreman or employe who violates any of the provisions of KRS 352.490 or 352.500 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(21) Any person who violates any of the provisions of KRS 352.510 fixing the distance from wells

within which mining operations may be conducted without the approval of the department, and any person who violates any of the terms of an order of the department allowing mining operations within a lesser distance of any well than that prescribed by law shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than twelve months, or both.

(22) Any inspector of mine weights, operator, superintendent, agent, company weighman or check weighman who violates any of the provisions of KRS 352.520 or 352.530 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(23) Any person, company or corporation that violates any of the provisions of KRS 352.540 or 352.550 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation.

(24) Any operator, manager, superintendent, mine foreman, assistant mine foreman, or whosoever shall be in charge of the person or persons violating any of the above provisions, may be fined in conjunction with the person or persons, an equal amount, and their certificate may be revoked, if it is shown that the violation occurred with their knowledge.

(25) An operator found to be in violation of KRS 352.260 shall be subject to the issuance of a closure order for a period of time from two (2) to five (5) days depending upon the seriousness of the situation. In the event an operator is found in violation of KRS 352.260 as a first offense a closure order shall be issued by the department. All workmen shall be withdrawn from the mine and the mine shall be closed for a period of forty-eight (48) hours thereafter. Subsequent violations of KRS 352.260 shall result in a closure order being issued by the department. All men shall be removed from the mine and the mine shall be closed for five (5) calendar days thereafter or the permit to shoot coal from the solid shall be cancelled by order of the commissioner.

(26) Any owner, tenant, company, corporation, manager, engineer, mine foreman or employe who violates any of the provisions of Section 1 of this Act shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

HJR 17, A RESOLUTION continuing the Kentucky Water Management Task Force.

WHEREAS, the General Assembly realizes the extreme importance of the state's water resource to the health and welfare of all Kentuckians; and

WHEREAS, the 1982 General Assembly created the Kentucky Water Management Task Force to assist the Natural Resources and Environmental Protection Cabinet "... in the development of a plan for the total management of the state's water resource;" and

WHEREAS, the task force created by the 1982 General Assembly has worked hard to accomplish its mission and has recommended legislation for introduction in the 1984 session; and

WHEREAS, the General Assembly is aware that the proper planning for the wisest utilization of the state's water resource is complex and time consuming and requires additional fact-findings;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission, intending to obtain information and determine the facts about the management of Kentucky's water resource, shall appoint members to serve on the reconstituted Kentucky Water Management Task Force. The task force shall consist of the following members: two members of the House of Representatives, one member of the Senate; and one each from the Natural Resources and Environmental Protection Cabinet, Kentucky Geological Survey, the Kentucky Department of Agriculture, the Commerce Cabinet, the Kentucky Association of Counties, the Kentucky Rural Water Association, Inc., the Kentucky Rivers Coalition, and the Society of Professional Engineers. The member from the Commerce Cabinet shall be experienced in economic development. The member from the Society of Professional Engineers shall be experienced in water-related projects. One of the three members of the General Assembly appointed to the task force shall be chairperson.

Section 2. The Kentucky Water Management Task Force shall obtain information from any source for the purpose of determining the facts in relation to the following:

(1) Development and implementation of state government's plan for the management of the Commonwealth's water as provided in KRS Chapters 146, 151 and 224.

(2) Revising the state law on the issuance of permits to withdraw water from surface and groundwater sources, the allocation of water, and the coordination of the state's water management plan with the issuance of water withdrawal permits.

Section 3. That state agencies shall report information to the task force as requested.

Section 4. That each of the state agencies having a member on the task force shall assign a staff person to work with the task force to assure that the task force can accomplish its purpose. The role of the

Legislative Research Commission staff shall be to coordinate the staff assigned by the state agencies.

Section 5. That the members of the task force shall be reimbursed their expenses in attending meetings. It is estimated that the operation of the task force will cost approximately $24,000, such monies to be provided from the regular budget of the Legislative Research Commission.

Section 6. That the task force shall report its findings, conclusions, recommendations, and legislative proposals to the Legislative Research Commission by September 1, 1985.

The Committee on Natural Resources and Environment reported **HB 25**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee Substitute to **HB 25** is as follows:

HB 25, AN ACT relating to county roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 179 IS CREATED TO READ AS FOLLOWS:

(1) Upon a finding by the fiscal court that there exists an unabated dust nuisance on a county road resulting from the transportation of natural resources by truck, said court may require the producers of the natural resources that are being hauled on said road to treat said road to control dust. The cost of treatment shall be apportioned among all producers of natural resources using said road. If a producer does not pay his proportionate share within sixty (60) days of the mailing of the bill, the fiscal court may prohibit the movement of the producer's natural resources on county roads until the charges are paid.

(2) The proportionate share of costs of any producer shall be determined as the percentage which the tonnage of natural resources hauled by or for the producer over county roads bears to the total tonnage of natural resources hauled on the county roads. The fiscal court shall consult with producers to devise an equitable method for determining proportionate cost shares before instituting charges, but the fiscal court shall be the final authority in determining proportionate costs.

(3) Treatment of county roads for dust pursuant to this section shall not include paving, or laying of rock.

The Committee on Energy reported **SB 110**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 110, AN ACT relating to rural electric cooperative corporations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.120 is amended to read as follows:

(1) Except as provided in *subsections* [~~subsection~~] (2) *and (3)* of this section, corporations formed under this chapter shall supply electric energy, furnish services and sell personal property, except that transferred in part payment for other personal property, to their members only.

(2) Except as provided in *subsection (3) of this section and in* KRS 279.125, any corporation formed under this chapter may supply electric energy, furnish services and sell property, to the extent of not more than *forty-nine percent (49%)* [~~twenty-five per cent (25%)~~] of its total business, to nonmembers of the corporation, including any federal agency, *any other state, and any county, city or political subdivision thereof* [~~this state, and any county, city or political subdivision of this state~~].

(3) A corporation formed under this chapter may sell and lease back any part or all of its property free of the restrictions contained in subsections (1) and (2) of this section, or any other section of the Kentucky Revised Statutes except that such sale shall be subject to KRS 279.140.

Section 2. Whereas, such amendments will result in major savings to Kentucky consumers of electricity, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, February 10, 1984.

On the roll call the vote was yeas 62-Arnold, Bendl, Blevins, Brinkley, Bruce, Burch, L. Clark, P. Clark, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Freibert, Fryman, Gedling, Hancock, Harper, Hines, Holbrook, Johnson, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Mann, McBee, McNutt, Meyer, Nett, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 5-Handy, Holloway, Maggard, Moore, Perkins.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 10, 1984

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Caldwell.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 9, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 3, SB 20, SB 176, HB 39, HB 257, HB 301,** and **HB 356.**

Introduction of Bills and Resolutions

HB 608, by Representative Johnson: AN ACT relating to local governments.

HB 609, by Representatives Bendl, Hancock, List, and Meyer: AN ACT relating to cancer.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 597, HB 602.**

Banking and Insurance: **HB 594, HB 603.**

Counties and Special Districts: **HB 593.**

Education: **HB 591, HB 592, HB 606, HB 607.**

Energy: **HB 598, HB 600.**

Health and Welfare: **HB 595.**

Judiciary-Civil: **HB 590.**

Labor and Industry: **HB 604.**

Natural Resources and Environment: **HB 601, HB 605.**

State Government: **HB 596, HB 599, SB 45, SB 163, SB 165.**

Transportation: **HJR 57.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **SB 4, SB 92.**

Counties and Special Districts: **HB 284, HB 379, HB 507, HB 552.**

Labor and Industry: **HB 604.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Counties and Special Districts: **HB 261.**

Report of Committees

The Committee on Rules reported **HB 10, HB 465, SB 8, HB 318,** and **HB 394** have been posted for passage in Orders of the Day, February 14, 1984.

The Committee on Rules reported the following Bills and Resolution have been recommitted:

HB 375, HB 479, and **HJR 7** to the Committee on Appropriations and Revenue.

HB 346 to the Committee on State Government.

Calendar

HB 29, HB 434, HB 87, HB 530, SB 19, SB 89, HB 470, HB 478, HB 435, HB 440, HB 463, SB 110, HB 266, HB 365, HB 398, and **HJR 17** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 106 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 106** be passed.

On the roll call the vote was yeas 94-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 106 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 106** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 108 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 108** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 108 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 108** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 110 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 1 to **HB 110.** Agreed.

Representative Donnermeyer moved that **HB 110,** as amended, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Mann.

HB 110, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 110,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 57, as amended by Committee Amendment No. 1, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Van Horn moved the adoption of the Committee Amendment No. 2 to **SB 57.** Agreed.

Representative Van Horn moved that **SB 57,** as amended, be passed.

On the roll call the vote was yeas 79-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, Stone, Stumbo, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 17-Allen, Brown, Burnette, Cowan, Crupper, Endicott, Ford, Fryman, Harper, R. Jones, Layman, McElroy, Moore, Patrick, B. Smith, Todd, Turner.

SB 57, as amended, was passed.

Representative Van Horn moved the adoption of the Committee Title Amendment to **SB 57.** Agreed.

Representative LeMaster moved that the vote by which **SB 57,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 152, with Committee Amendments and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holloway moved the adoption of the Committee Amendment No. 1 to **HB 152.** Agreed.

Representative Holloway moved the adoption of the Floor Amendment No. 2 to **HB 152.** Agreed.

Representative Holloway moved that **HB 152,** as amended, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 152, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 152,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 154, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 154.** Agreed.

Representative Bendl moved that **HB 154,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 87-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 154, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 154,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 39, HB 257, HB 301,** and **HB 356** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by Speaker. Ordered delivered to the Senate. (Time - 10:35 a.m.)

HB 39, HB 257, HB 301 and **HB 356** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 273, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of the Committee Amendment No. 1 to **HB 273**. Agreed.

Representative Johnson moved that **HB 273**, as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 273, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 273**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 335 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 335** be passed.

On the roll call the vote was yeas 58-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Cowan, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Foster, Gedling, Gray, Guenthner, Hancock, Handy, Hines, Holbrook, Holloway, Johnson, Kidd, LeMaster, Lile, Little, Maggard, McElroy, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Perkins, Priddy, Rattliff, B. Richardson, Riner, F. Smith, Stone, Stumbo, Thomas, Van Horn, Williams, Worthington, Yates. Nays 31-Allen, Clarke, Craddock, Crupper, Ellington, Farrow, Ford, Freibert, Fryman, Harper, Head, Heleringer, R. Jones, T. Jones, Layman, Lefevers, Long, McBee, McNutt, Moore, Patrick, Pearman, Petty, Rapier, Reinhardt, Richards, Robinson, B. Smith, Todd, Turner, White.

HB 335 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 335** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 446, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 446** be passed.

On the roll call the vote was yeas 97-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 446 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 446** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 466 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 466** be passed.

On the roll call the vote was yeas 55-Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Burch, Clapp, L. Clark, P. Clark, Clarke, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Holbrook, Johnson, T. Jones, Kenton, LeMaster, Lile, List, Little, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Nett, Noe, Overstreet, Perkins, Priddy, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Van Horn, Williams, Yates. Nays 34-Allen, Bruce, Cline, Craddock, Crupper, Dawahare, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Harper, Head, Heleringer, Holloway, Layman, Lefevers, Long, McNutt, Moore, Morris, Noland, O'Brien, Patrick, Pearman, Petty, Rapier, Reinhardt, Robinson, Todd, Turner, White, Worthington.

HB 466 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 466** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 51 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **SB 51** be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nay 1-Brown.

SB 51 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 51** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 309, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Amendment No. 1 to **HB 309**. Agreed.

Representative Moberly moved the adoption of the Floor Amendment No. 1 to **HB 309**. Agreed.

Representative Moberly moved that **HB 309**, as amended, be passed.

On the roll call the vote was yeas 98-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 309, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 309,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 303 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 303** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 303 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 303** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Burch moved the adoption of the following Legislative Citation No. 36:

The House of Representatives of the Commonwealth of Kentucky congratulates Miss Jill Puckett, lovely daughter of Mrs. Sally Patton and Mr. David Puckett of Louisville, Kentucky, as winner of the Kentucky Junior Miss Pageant held January 8, 1984, in Bowling Green, Kentucky. Scholastic aptitude, personal interviews, physical fitness routine, poise and appearance and creative and performing arts captured the crown for you. Your $2700 college scholarship and your numerous offers of scholarships from universities across the nation is indicative of your academic achievement. As a Senior at Seneca High School, we are proud of your leadership and talent demonstrated with your membership in Student Council, the Pep Club, Chorus, Beta Club and other activities. You have brought great honor and pride to your school, community and the Commonwealth of Kentucky.

This prestigious body salutes you and we extend to you our very best wishes for continued success. (Sponsored by Representative Burch)

Agreed.

Representative Deskins moved that **HB 576** and **HB 577** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Donnermeyer moved that he be recorded as changing his vote from "nay" to "yea" on **HB 433**. Agreed.

Representative List moved that **HB 411** be recommitted to the Committee on Cities. Agreed.

Representative Stone moved that John Y. Brown, Sr. be invited to deliver the Lincoln Day address on Tuesday, February 24, 1984. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 309**. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 610, by Reprsentative LeMaster: AN ACT relating to traffic regulations.

HB 611, by Representative Hancock: AN ACT proposing to amend the Constitution of Kentucky relating to the auditor of public accounts.

HB 612, by Representative Thomas: AN ACT relating to water districts.

HB 613, by Representatives Priddy, Bennett, and Mann: AN ACT relating to firefighters.

HB 614, by Representatives Noe, Deskins, Maggard, Blevins, Perkins, Brown, Todd, Robinson, Noland, Patrick, List, Head, Lefevers, Little, Stumbo, Bronger, Dawahare, Brinkley, Stone, Moore, and White: AN ACT relating to income taxes.

HB 615, by Representatives Hancock, T. Jones, Barrows, Long, Farrow, Crupper, Rapier, P. Richardson: AN ACT relating to a qualified cash or deferred arrangement for the benefit of employes and officials of the State of Kentucky, as described in Section 401(K) (2) of the Internal Revenue Code.

HJR 58, by Representatives Perkins, Stumbo, Handy, Harper, Brinkley, Stone, Cyrus, Brown, Cline, Blevins, L. Clark, Bronger, and Mann: A JOINT RESOLUTION directing the Cabinet for Human Resources, in any rules adopted by the cabinet to govern payments to or for needy households for the purchase of home energy, to give first priority for assistance, and the highest benefit levels to households whose essential costs for food, shelter, clothing, energy and medical care exceed income.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **SCR 8.**

Judiciary-Civil: **HB 484, HB 583, HB 453, HB 449.**

Appropriations and Revenue: **HB 568.**

Energy: **HB 588.**

Agriculture and Small Business: **HR 48.**

Energy: **HB 561, HB 537.**

Business Organizations and Professions: **HB 505.**

Judiciary-Criminal: **HB 500, HB 504, HB 556, HB 550.**

Motions, Petitions, and Communications (continued)

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsors requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Arnold, **HB 506**; Representative Bennett, **HR 46**; Representative Ellington, **HB 539, HB 540, HB 541**; Representative Gray, **HB 539, HB 540, HB 541**; Representative R. Jones, **HB 435**; Representative Kenton, **HB 609**; Representative Seum, **HB 411**; Representative Williams, **HB 466.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 3 to **HB 119**, by Representative Guenthner:

Amend printed copy of Committee Substitute to **HB 119**, on page 14, line 2, by placing brackets around and strike through the word "*county*".

Floor Amendment No. 4 to **HB 119**, by Representative Nett:

Amend printed copy of Committee Substitute to **HB 119** on page 3, line 14, add the following new subsection:

"*(3) The provisions of Section 1-9 of this Act shall not apply to police officers employed by a city of the first class.*"

And on page 11, line 14, delete the phrase beginning with the word "*in*" and ending with the figure "*90.120*" on line 16;

And on page 14, line 22, add the following new section and renumber Sections 10 through 25 as Sections 11 through 26 accordingly:

SECTION 10. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The following rights shall be afforded police officers employed by a city of the first class:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, shall be taken under oath in the form of an affidavit, signed, and sworn to by the complainant and duly notarized.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion.

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing; however, such police officer may be required to submit a written report of the alleged incident no later than the end of the tour of duty in which the incident is alleged to have occurred.

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to the right to remain silent, the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of such charges.

(e) Any charge involving violation of any city rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself. Said charge shall be served on the police officer in writing.

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the city or the police officer so charged, until final disposition of the charges.

(g) No police officer as a condition of continued employment by the city shall be compelled to speak or testify or be questioned by any person or body of a non-governmental nature.

(2) If, in a city of the first class, an officer has the right to a hearing conducted by the appointing authority or the civil service board pursuant to KRS 90.190, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer:

(a) The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing.

(b) Copies of any sworn statements or affidavits to be considered by the hearing authority shall be furnished to the police officer no less than twenty-four (24) hours prior to the time of the hearing.

(c) If the hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested.

(d) If the return receipt, as hereinabove referred to, has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice.

(e) The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel.

(f) The accused police officer shall be allowed to have presented witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and shall have the right to cross-examination of any and all witnesses called by the charging party.

(g) If a police officer entitled to a hearing pursuant to KRS 90.190(1) is not given a hearing within sixty (60) days of the written demand, unless justifiable cause is given for the continuance, the charges shall be dismissed with prejudice and not be considered by any administrative adjudicating body; however, a police officer who has appealed a disciplinary action may agree to a continuance to a date certain.

(3) As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers in a city of the first class by statute, ordinance or working agreement.

And on page 13, line 26, delete the figure "*96*" and insert in lieu thereof, the figure "*95B*";

And on page 24, lines 15 and 16, delete the new, underlined language "*other than police officers*";

And on page 25, line 24, insert after the word "within" and before "twenty", the new language "*thirty (30)*" and on the same line place brackets around and strike through the language: "twenty (20)";

And on page 26, line 6, insert after the work "shall" and before the word "file", the new word "*provide*" and on the same line, place brackets around and strike through the word "file";

And on page 26, line 7, insert after the word "body" and before the word "in", the new language: "*to the appellant*" and on that same line continuing to line 8, place brackets around and strike through the phrase: "in the circuit court";

And on page 26, line 8, after the period and before the word "Upon", insert the new sentence: "*The appeal shall be prosecuted by filing a complaint in circuit court and shall otherwise be in accordance with the Rules of Civil Procedure.*"

And on page 26, line 8, between the words "filed" and "the", insert the new language: "*by the appellant*";

And on page 26, line 10, between the words "to" and "certify", insert the new language: "*provide a certified copy*" and place brackets around and strike through the word "certify";

And on page 26, line 11, between the words "the" and "circuit", insert the word: "*appellant*" and place brackets around and strike through the phrase: "circuit court" and on that same line, between the words "within" and "five", insert the new language: "*thirty (30)*" and place brackets around and strike through the language: "five (5);

And on page 26, line 16, between the words "than" and "five", insert the new language: "*thirty (30)*" and place brackets around and strike through the language: "five (5)";

And on page 27, line 7, delete subsection (6) in its entirety, through line 9.

Floor Amendment No. 2 to **HB 411**, by Representative L. Clark:

Amend printed copy of **HB 411** on page 1, after line 10, by adding the following new section:

"Section 2. KRS 81A.420 is amended to read as follows:

(1) Whenever a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. Such ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory.

(2) If following the publication of the annexation ordinance pursuant to subsection (1) of this section and within sixty (60) days thereof, or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days following July 15, 1980, fifty percent (50%) of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in opposition to the proposal, an election shall be held at the next regular election occurring at least sixty (60) days after the petition is presented to the county clerk.

(a) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of ________?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex.

(b) If less than *a majority* [~~seventy-five percent (75%)~~] of the qualified voters in the area to be annexed oppose annexation, *the ordinance proposing annexation shall become ineffectual for any purpose* [~~the unincorporated territory shall become a part of the city~~].

(c) If *a majority* [~~seventy-five percent (75%)~~] or more of the qualified voters in the area to be annexed *favor* [~~oppose~~] annexation, the *unincorporated territory* [~~ordinance proposing annexation~~] shall become *a part of the city* [~~ineffectual for any purpose~~].

(3) In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received by the mayor as set out herein, or within sixty (60) days of the certification of election results in which *a majority or more* [~~less than seventy-five percent (75%)~~] of the qualified voters in the area *opposed* [~~opposed~~] annexation, the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. Upon the enactment of this ordinance, the territory shall become part of the city for all purposes."

And on page 1, line 11, by renumbering "Section 2" to "Section 3";

And on page 2, line 12, by renumbering "Section 3" to "Section 4";

And on page 2, line 18, by renumbering "Section 4" to "Section 5".

The following meetings were announced:

Counties and Special Districts: 8:30 a.m., February 14, 1984.

Appropriations and Revenue: 11:00 a.m., February 14, 1984.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 14, 1984.

On the roll call the vote was yeas 63-Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Brown, Burch,

P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Harper, Hines, Johnson, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Noe, Noland, Patrick, Pearman, Petty, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 6-Endicott, Handy, Holloway, Maggard, Moore, Perkins.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 14, 1984

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend T. H. Peoples, Jr., Pleasant Green Baptist Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Petty.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 10, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 107, SB 134,** and **HB 270.**

Introduction of Bills and Resolutions

HB 616, by Representatives Meyer and Mann: AN ACT relating to sanitation districts.

HB 617, by Representative Stumbo: AN ACT relating to sick leave for school employes and teachers.

HB 618, by Representative Curd: AN ACT relating to athletic eligibility.

HR 59, by Representative Farrow: A RESOLUTION honoring Annette Dawson of Cynthiana, Kentucky.

HCR 60, by Representatives Meyer, Nett, B. Smith, Holbrook, P. Clark, Johnson, Kenton, Hancock, Mann, and Lundergan: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a special task force on urban policy.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 614.**

Banking and Insurance: **SB 176.**

Cities: **HB 608, HB 613.**

Counties and Special Districts: **HB 612, SB 3.**

Health and Welfare: **HB 609, HJR 58.**

Judiciary-Criminal: **SB 20.**

State Government: **HB 611, HB 615.**

Transportation: **HB 610.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 491.**

Business Organizations and Professions: **HB 179.**

Cities: **HB 411, HB 462, HB 371, SB 120, SB 35.**

Report of Committees

The Committee on Rules reported **HB 25, HB 435, HB 440, HB 470, HB 530, SB 110,** and **HB 400** have been posted for passage in Orders of the Day, February 15, 1984.

The Committee on Rules reported **HJR 17** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Counties and Special Districts reported **HB 284** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 284, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 173.480 is amended to read as follows:

Upon the creation of a district, the fiscal court of each county in the district shall at once notify the department of library and archives of the establishment of the district *and shall forward to the department a copy of the petition required pursuant to KRS 173.470.* The department of library and archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from *among the signers of the petition* [~~that county~~] to be appointed to the board. The department of libraries and archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall immediately, with the approval of the fiscal court, make his selection from those recommended. Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members. The department of libraries and archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, the department of library and archives shall, *from among the signers of the petition,* recommend to the county judge/executive of each county included in the new district *for the first time* twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for his county from this list. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board *and such vacancies shall be filled as provided in KRS 173.490.*

Section 2. KRS 173.490 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended *by the board. The board shall recommend two (2) persons committed to the provision of library services to the department for libraries and archives, for each vacancy. The names shall be forwarded to the department of libraries and archives and the state librarian and commissioner shall recommend those names to the county judge/executive. The county judge/executive shall immediately, with the approval of the fiscal court, make his selection from those recommended. Board members thus appointed shall serve* [~~and appointed in the same manner, but for~~] a term of four (4) years each. Trustees may serve for

two (2) consecutive terms after which they shall not succeed themselves, effective July 1, 1974, exclusive of present terms begun prior to that date. The members shall hold office until their respective successors are appointed and qualified. Absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term shall constitute automatic resignation from the board by the trustee.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge/executive, with the approval of the fiscal court, by appointment on recommendation of the *state librarian and commissioner of two (2) names of persons committed to the provision of library services and living in* [~~department of library and archives of two (2) names for each vacancy from~~] the county in which the vacancy occurred.

(3) A member of the board may be removed from office as provided by KRS 65.007.

Section 3. KRS 173.725 is amended to read as follows:

(1) Upon the creation of a district, the fiscal court of each county in the district shall at once notify the department of library and archives of the establishment of the district *and shall forward to the department a copy of the petition required pursuant to KRS 173.720.* The department of libraries and archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from *among the signers of the petition* [~~that county~~] to be appointed to the board. The department of libraries and archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall, with the approval of the fiscal court, immediately make his selection from those recommended. Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members. The department of libraries and archives shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district, and that the total membership of the board consists of not less than five (5) members. Where a county joins an already established district, the department of libraries and archives shall, *from among the signers of the petition,* recommend to the county judge/executive of each county included in the new district *for the first time* twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for his county from this list. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board *and such vacancies shall be filled as provided in KRS 173.730.*

(2) In making recommendations and appointments under subsection (1) of this section and KRS 173.730, the department of libraries and archives and the county judge/executive shall attempt to assure, to the extent permitted by the county's entitlement to board members, that the board includes members from different geographical areas, and from both cities and unincorporated areas, of the county.

Section 4. KRS 173.730 is amended to read as follows:

(1) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, their successors shall be recommended *by the board. The board shall recommend two (2) persons committed to the provision of library services to the department of libraries and archives, for each vacancy. The state librarian and commissioner shall recommend those names to the county judge/executive. The county judge/executive shall immediately, with the approval of the fiscal court, make his selection from those recommended. Board members thus appointed shall serve* [~~and appointed in the same manner, but for~~] a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves, effective July 1, 1974, exclusive of present terms begun prior to that date. The members shall hold office until their respective successors are appointed and qualified. Absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term shall constitute automatic resignation from the board by the trustee.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge/executive, with the approval of the fiscal court, by appointment on recommendation of the *state librarian and commissioner of two (2) persons interested in the provision of library services and living in* [~~department of library and archives of two (2) names for each vacancy from~~] the county in which the vacancy occurred.

(3) A member of the board may be removed from office as provided by KRS 65.007.

The Committee on Labor and Industry reported **HB 111** with Committee Amendment attached thereto, **HB 128** with Committee Substitute attached thereto, **HB 323** with Committee Amendments attached thereto, **HB 366**, and **HB 508** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 111, AN ACT relating to employment skills training and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Applicant" means an educational institution which has made application for a grant-in-aid as authorized by this Act;

(2) "Board" means the board of directors of the bluegrass state skills corporation;

(3) "Business and industry" means a private corporation, institution, firm, person, group or association of the same, concerned with commerce, trade, manufacturing or the provision of services within the Commonwealth, or a public or nonprofit hospital licensed by the Commonwealth;

(4) "Corporation" means the bluegrass state skills corporation, or BSSC;

(5) "Educational institution" means a public secondary or post-secondary institution or an independent nonprofit institution within the Commonwealth authorized by law to provide a program of skills training or education beyond the secondary school level;

(6) "Grant-in-aid" means funding that is provided to an educational institution by the BSSC for the development or expansion of a program as provided in this chapter;

(7) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:

(a) Classroom instruction;

(b) Classroom related field, shop, factory, office or laboratory work; and

(c) Entry level training, job upgrading, retraining, and advance training.

(8) "Technical assistance" means professional and any other assistance provided by business and industry to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

SECTION 2. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the department of manpower services for administrative purposes.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including: the commissioner of manpower services, the secretary of commerce, the commissioner of labor, the chairman of the council on higher education, and the superintendent of public instruction. Thirteen (13) members shall be appointed by the governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the thirteen (13) members shall be appointed to represent labor organizations. Each member appointed by the governor shall serve for a term of four (4) years, except that in making the initial appointments the governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and four (4) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the governor for cause.

(6) The governor shall designate a member of the board as its chairman.

(7) Ten (10) members of the board shall constitute a quorum and the affirmative vote of ten (10) such members shall be necessary for any action to be taken by the board.

(8) Members shall receive no compensation for their services but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(9) The board of directors of the corporation shall annually elect a vice-chairman, secretary and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(10) The board shall hire an executive director and establish his salary. The executive director shall be

the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(11) All officers and employes of the corporation having access to its funding shall give bond to the corporation, at its expense, in such amount and with such surety as the board may prescribe.

SECTION 3. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but not limited to the following:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its function and duties;

(2) To adopt an official seal;

(3) To sue and be sued in its own name;

(4) To make contracts and execute all instruments necessary or convenient for the conduct of its business;

(5) To make, execute and effectuate all agreements with any federal or state agency or any person, corporation, association, partnership or other organization or entity necessary to accomplish the purposes of this chapter;

(6) To procure sufficient insurance coverage against any losses in connection with its property;

(7) To accept any and all donations, grants, bequests, and devices, conditional or otherwise, of money, property, service, or other things of value which may be received from the United States, or any agency thereof, any governmental agency, an institution, person, firm or corporation, public and private, to be held, used or applied solely for the purposes specified in this Act. Receipt of each donation or grant shall be detailed in the annual report of the corporation. Such reports shall include the identity of the donor and the nature of the transaction;

(8) To collect and disseminate to interested individuals, in cooperation with and through any agencies of federal, state and municipal government, information concerning areas of present and projected employment need, programs of skills training and education consistent therewith and any other relevant information;

(9) To provide grants-in-aid to educational institutions to encourage and facilitate the formation of comprehensive cooperative relationships with business and industry which secure for such institutions the information, technical assistance and financial support necessary for the development and significant expansion of programs of skills training and education consistent with employment need;

(10) To prepare, publish and distribute, with or without charge as the corporation may determine, such technical studies, reports, bulletins, and other materials as it deems appropriate; and

(11) To organize, conduct or sponsor special institutes, conferences, demonstrations, and studies to effectuate the purposes of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

(1) The corporation may, subject to appropriation from the general assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to educational institutions, not in excess of two hundred thousand dollars ($200,000) per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.

(2) To qualify for a grant-in-aid, an educational institution shall submit an application to the corporation which contains a proposal for a program of skills training and education; a description of the program; the type of skills training or education to be provided; a statement of the total cost of the program and breakdown of the costs associated with equipment, personnel, facilities and materials; and a statement of the technical assistance and financial support for the program received or pledged from business and industry.

(3) Approval of the grant-in-aid application by the board, shall be based upon the following criteria:

(a) The program must be within the scope of this Act;

(b) Participants in the program must be limited to citizens of the Commonwealth;

(c) The program must involve an area of skills training and education which is needed by business and industry within the Commonwealth;

(d) The grant-in-aid must be essential to the success of the program as the resources of the applicant are inadequate to attract the technical assistance and financial support necessary from business and industry;

(e) The applicant must have obtained a firm commitment from business and industry for the information, technical assistance and financial support which, together, with the grant-in-aid, the resources of the applicant, and support from any other source, is sufficient to ensure the success of the program. In addition, the commitment of financial support from business and industry shall be equal to or greater than the amount of the requested grant-in-aid; and

(f) The applicant must have established adequate auditing procedures and reporting methods for the submission of information and data as required by the corporation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

The corporation shall annually submit a complete and detailed report of its activities within ninety (90) days after the end of each fiscal year to the legislative research commission and to the governor. The annual report shall include but not be limited to descriptions of all programs funded, an evaluation of the performance of each program, a summary of expenditures, and a detailed description of the participants.

Section 6. There is hereby appropriated out of the general fund the sum of one million dollars ($1,000,000) for the purpose of implementing the provisions of this Act for the fiscal years 1984-85 and 1985-86. Any remaining balance at the close of the 1984-85 fiscal year shall continue forward into the 1985-86 fiscal year.

The Committee Amendment No. 1 to **HB 111** is as follows:

Amend printed copy of **HB 111,** on page 1, line 18, after the word "*public*" insert eh following: "*or non-public*";

on page 1, line 20, by deleting the word "*nonprofit*";

on page 3, line 3, by deleting the words "*manpower services*" and inserting in lieu thereof "*education*";

on page 4, lines 10 through 13, by deleting in its entirety subsection *(7)* and renumbering the subsections which follow accordingly; and

on page 8, line 11, by inserting after the word "*industry*" the following: "*and for which a shortage of qualified individuals exists*"

HB 128, AN ACT relating to conflict of interest by members of private industry councils.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

(1) Any member of a private industry council, established under the Job Training Partnership Act of 1982 (96 Stat. 1322) which is administered by the department for manpower services, who has a personal or private interest in any measure proposed or pending before the council shall disclose the fact to the council and shall not vote on such measure.

(2) In accordance with regulations promulgated by the secretary for human resources, violations of the provision contained in subsection (1) of this section by a member of a private industry council may result in the withholding of funds to such private industry council.

The Committee Substitute to **HB 128** is as follows:

HB 128, AN ACT relating to conflict of interest by members of private industry councils.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

(1) No member of any private industry council, established under the Job Training Partnership Act of 1982 (96 Stat. 1322), shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter which would provide direct financial benefit to that member.

(2) Whenever the secretary determines that there is a substantial violation of subsection (1) of this section, the secretary may issue a notice of intent to revoke approval of all or part of the plan affected.

HB 323, AN ACT relating to employment skills training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

(1) In order to provide displaced workers with the opportunities necessary to prepare them for employment in demand occupations and to facilitate rapid adjustments to meet changing economic and labor market needs, there is hereby established the Kentucky economic adjustment team which shall consist of six (6) members. The members are the governor of the Commonwealth or his designated representative, who shall serve as chairperson, the commissioner of manpower services, the commissioner of commerce, the commissioner of labor, the superintendent of public instruction, and the executive director of the council on higher education.

(2) For purposes of this Act, "displaced worker" shall mean a worker who has been terminated or laid off or who has received a notice of termination or layoff from employment as a result of a plant closing, a plant relocation, or a permanent reduction in operations.

(3) The Kentucky economic adjustment team shall be attached to the department of manpower services for administrative purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

Education and training programs undertaken for displaced workers pursuant to this Act shall build upon existing delivery systems and not unnecessarily duplicate or compete with current vocational courses and existing employment and training programs. To the maximum extent feasible, this program shall be undertaken through coordination and efficient utilization of existing federal and state financial resources.

SECTION 3. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

The responsibilities of the Kentucky economic adjustment team shall include, but not be limited to the following:

(1) Alleviating adverse conditions that might cause plant closures and, where these closures have been unavoidable, assisting local efforts to secure alternative employment and retraining opportunities for displaced workers.

(2) Seeking the participation and advice of individuals representative of local government, business, and labor in fulfilling its responsibilities. The advice of these knowlegeable community leaders shall be drawn upon to assure effective assistance by the state responsive to particular community needs and circumstances.

(3) Assisting, upon the request of local communities, employers, or employe representatives, in marshalling available state and federal resources to aid workers and communities affected by major plant closures and to foster long-term, continuing economic vitality, industrial growth, and job opportunities.

(4) Providing on-site assistance to displaced workers in such areas as job counseling and testing, job search assistance, placement services, unemployment insurance eligibility, and training and education opportunities.

(5) Overseeing the collection of data and preparation of economic analyses and reporting intended to provide better and more detailed assessments of future trends within the industrial, commercial, and agricultural sectors of the economy.

(6) Studying and making recommendations to the legislative research commission regarding changes needed in current federal and state statutes and programs in order to minimize harmful consequences of plant closures and promote rapid reemployment of workers and revitalization of communities.

(7) Cooperating with all other state, federal and local agencies, departments, and commissions as is necessary to carry out its responsibilities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

Employment training, assessment, job search assistance, and placement programs and services authorized pursuant to this Act shall include, but not be limited to all of the following:

(1) Services necessary to assist displaced workers in identifying and obtaining reemployment, including placement in jobs to which their pre-existing skills are transferable. These services shall include, but need not be limited to all of the following:

(a) Analysis and assessment of skills required for occupations in high demand in the local or surrounding labor markets and in which there is not a surplus of qualified applicants.

(b) Job search assistance, including the following:

1. Provision of labor market information.

2. Training in skills necessary to identify job openings and perform effective job seeking.

3. Teaching of self-help techniques included in securing and retaining new employment.

4. Identifying methods for determining occupations to which pre-existing skills can be transferred.

(2) Counseling and support services needed by displaced workers subsequent to a period of reduced

employment or job loss, including but not limited to all of the following:

(a) Counseling and referral concerning available retraining programs.

(b) Information and referral regarding available financial services, including access to credit, home mortgage assistance, and assistance in securing transportation to employment opportunities in surrounding labor market demand areas.

(c) Referral to supportive services for displaced workers and their families which are necessary to deal with the adverse consequences of employment loss or reduction.

(3) Other activities, including those aimed at job training and job development, which are related to the activities of state and local governments and private industry.

SECTION 5. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

Whenever possible, the services authorized by this Act shall be performed by the Kentucky economic adjustment team on site at or near the plant at which the workers, who have received notice of termination or layoff as a result of a plant closing, relocation, or permanent reduction in operations, are currently employed.

The Committee Amendment No. 1 to **HB 323** is as follows:

Amend printed copy of **HB 323,** on page 1, line 8, by deleting the words "*six (6)*" and inserting in lieu thereof "*seven (7)*";

On page 1, line 12, by inserting after the word "*labor,*" the words "*commissioner of agriculture,*";

On page 2, line 11, after the word "*resources.*", by adding the following language:

In addition, nothing shall prohibit the Kentucky economic adjustment team from accepting any and all donations, grants, bequests, and devices, conditional or otherwise, of money, property, service, or other things of value which may be received from the United States, or any agency thereof, any governmental agency, an institution, person, firm or corporation, public and private, to be held, used or applied solely for the purposes specified in this Act.

The Committee Amendment No. 2 to **HB 323** is as follows:

Amend printed copy of **HB 323,** on page 2, lines 17 through 21, by deleting in its entirety subsection *(1)* and renumbering the subsections which follow accordingly

The Committee Amendment No. 3 to **HB 323** is as follows:

Amend printed copy of **HB 323,** on page 3, line 8, after the word "*assistance*" by adding "*when such on-site assistance is agreeable with the employer*"

HB 366, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any section of this chapter to the contrary, on or after July 15, 1984, any new domestic corporation, or any foreign corporation authorized to do business in this state, or any foreign corporation active in conjunction with a domestic corporation in a joint venture, partnership or other legal entity engaged in the contract construction trades shall pay contributions equal to the maximum rate of contributions payable under the rate schedule in effect for any given calendar year as determined by KRS 341.270; and, such maximum rate of contributions shall remain in effect until the employer has employed persons in this state for not less than twelve (12) consecutive calendar quarters ending as of September 30 immediately preceding the computation date. Thereafter, such employer's contribution rate shall be determined in accordance with the provisions of subsection (4) of KRS 341.270. This section shall not apply to those construction contracts let prior to July 15, 1984.

HB 508, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

No employe shall be harrassed, coerced, transferred, discharged, or discriminated against in any manner whatsoever for filing and pursuing a lawful claim under this chapter.

Section 2. KRS 342.990 is amended to read as follows:

(1) Any employer subject to this chapter who refuses or willfully neglects to make the report required by KRS 342.038 shall be fined not more than twenty-five dollars ($25.00) for each offense.

(2) Any person who violates KRS 342.040, 342.335, [~~and~~] 342.630 *and Section 1 of this Act* shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or imprisoned for not less than ten (10) days nor more than ninety (90) days.

(3) Any person who violates subsection (2) of KRS 342.400 shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or imprisoned for not less than ten (10) days nor more than ninety (90) days.

(4) Any employer who violates KRS 342.420 shall be fined not more than one hundred dollars ($100) for each offense.

(5) Any person who violates any of the provisions of KRS 342.445 to 342.475 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than ten (10) days nor more than ninety (90) days, or both.

The Committee Amendment No. 1 to **HB 508** is as follows:

Amend printed copy of **HB 508,** on page 1, line 3, by deleting the word "*transferred,*"

The Committee on Transportation reported **HB 519,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 519, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS *189.030, 189.150,* [~~189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to~~] 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30.00). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60.00) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15.00) nor more than fifty dollars ($50.00) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15.00).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35.00) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15.00) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00).

(9) (a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than one hundred dollars ($100) nor more than five hundred dollars ($500); for the second offense, a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30.00) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20.00) nor more than twenty-five dollars ($25.00).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35.00) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60.00) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300).

(23) Upon conviction for any violation pursuant to KRS 189.020, 189.025, 189.040, subsections (1), (2) and (5) of KRS 189.050 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.110 to 189.120 and KRS 189.130 to 189.140, the owner of the motor vehicle shall be fined not less than twenty dollars ($20) and not more than one hundred dollars ($100).

Section 2. KRS 281.990 is amended to read as follows:

(1) Any person who violates, or causes, aids or abets any violation of, any of the provisions of this chapter or any order, rule or regulation lawfully issued pursuant to authority granted by this chapter, or who knowingly makes any false or erroneous statement, report or representation to the *department* [~~bureau~~] of vehicle regulation with respect to any matter placed under the jurisdiction of the *department* [~~bureau~~] by this chapter, or who knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter, or who knowingly fails to keep, or knowingly destroys or mutilates, any such accounts or records, shall be fined not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days, or both. Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or regulation of the *department* [~~bureau~~] issued pursuant thereto, shall constitute a violation thereof.

(2) Any person who violates KRS 281.615 shall be fined not less than sixty dollars ($60.00) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(3) In addition to the penalties prescribed in subsection (1) of this section, in case of violation by any person in whose name an industrial bus is licensed, such person shall forfeit all certificates and permits held by him, and shall not be eligible to hold any certificate or permit for a period of five (5) years thereafter.

(4) Upon conviction for a violation pursuant to KRS 281.750, the licensee or owner of the vehicle, if said person is other than the operator of the vehicle shall be fined not less than twenty dollars ($20) and not more than two hundred dollars ($200).

The Committee Amendment No. 1 to **HB 519** is as follows:

Amend printed copy of **HB 519**, on page 2, line 4, after "(a)" by inserting the following "*The individual or company responsible for loading a motor carrier in violation of*" and by placing an opening bracket before the word "Any" and a closing bracket after the word "violates" and in striking through all language between said brackets;a nd

On page 8, line 10, after the word "*KRS 189.090*" by adding the word "*KRS 189.100,*"

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 59**:

HR 59, A RESOLUTION honoring Annette Dawson of Cynthiana, Kentucky.

WHEREAS, Annette Dawson of Cynthiana, Kentucky is only six years old and is in the first grade at Northside Elementary School; and

WHEREAS, at 8:30 a.m. on Wednesday, January 11, 1984, Annette's great aunt Elizabeth Matthews, who is 86 years old, caught her clothing on fire during an accident in the kitchen; and

WHEREAS, during the confusion of the ensuing moments, a rug in the kitchen caught fire as well as a towel that was placed at the back door to help block cold air; and

WHEREAS, the elderly Mrs. Matthews called to Annette for help; and

WHEREAS, six year old Annette Dawson acted quickly, calmly and intelligently by helping her great aunt remove the burning clothing, throwing the burning rug onto the back porch, and stomping out the burning towel in the kitchen; and

WHEREAS, Annette's brave and mature actions helped save her aunt's life and prevented Mrs. Matthews from experiencing further injury; and

WHEREAS, Annette Dawson was presented with an honorary Cynthiana Fire Department junior

membership award for her remarkable and unselfish actions;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House proudly honors Miss Annette Dawson for her heroic actions which helped save her great aunt's life.

Section 2. That this honorable body extends its concerns and best wishes to Mrs. Elizabeth Matthews for a speedy recovery.

Section 3. That the House hails Annette Dawson as an outstanding Kentuckian and exemplary representative of the Commonwealth.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Miss Annette Dawson.

HR 59 was adopted by voice vote.

As agreed on Friday, February 10, 1984, John Y. Brown, Sr. delivered a Lincoln Day Address.

Orders of the Day

HB 10 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 10** be passed.

On the roll call the vote was yeas 81-Allen, Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, Meyer, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P.Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, White, Worthington, Yates. Nays 2-Bennett, Van Horn.

HB 10 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 10** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 465 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 465** be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Head, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 465 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 465** was passed be reconsidered and said

motion be placed on the table. Agreed.

SB 8 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that **SB 8** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 8 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 8** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 394, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Committee Amendment No. 1 to **HB 394.** Agreed.

Representative Blevins moved the adoption of the Committee Amendment No. 2 to **HB 394.** Agreed.

Representative Blevins moved that **HB 394,** as amended, be passed.

On the roll call the vote was yeas 67-Allen, Arnold, Barrows, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, R. Jones, Kenton, Kidd, Layman, Lefevers, Lile, Little, Long, Lundergan, Maggard, McBee, McElroy, Moberly, Nett, Noe, Noland, Overstreet, Patrick, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, Robinson, Seum, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 15-Bendl, Bennett, Blandford, L. Clark, P. Clark, Cowan, Fryman, Handy, Holloway, Johnson, List, Morris, O'Brien, Pearman, B. Smith.

HB 394, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 394,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 619, by Representative List: AN ACT relating to valuation of utility property.

HB 620, by Representatives Yates and L. Clark: AN ACT relating to fiscal courts.

HB 621, by Representatives Harper, Reinhardt and Caldwell: AN ACT relating to motor vehicle taxation.

HB 622, by Representative Little: AN ACT relating to personal services contracts.

HB 623, by Representative Donnermeyer: AN ACT relating to revenue and taxation.

HB 624, by Representatives R. Jones and List: AN ACT relating to state purchasing.

HB 625, by Representative List: AN ACT relating to property taxation.

HB 626, by Representatives McElroy, Brinkley, and Stone: AN ACT relating to Johnson grass.

HB 627, by Representatives Blevins and Cline: AN ACT relating to representative districts and declaring an emergency.

HB 628, by Representative Meyer: AN ACT relating to arson investigation.

HB 629, by Representatives Johnson and Lundergan: AN ACT relating to the Judicial Retirement Plan, and making an appropriation therefor.

HB 630, by Representatives Johnson and Blandford: AN ACT relating to transportation for school children.

HB 631, by Representative Johnson: AN ACT relating to protective services for children.

HB 632, by Representative Burnette: AN ACT relating to an earthquake safety council.

HB 633, by Representatives Mann, Overstreet, Burnette, Lundergan, Endicott, Maggard, Stone, Brinkley, and Bruce: AN ACT relating to clerks of courts and making an appropriation therefor.

HB 634, by Representative B. Richardson: AN ACT relating to appointments.

HR 61, by Representative Burnette: A RESOLUTION relating to tobacco.

HJR 62, by Representative Lundergan: A JOINT RESOLUTION directing a study of the problems and potential solutions relating to leaking underground storage tanks.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Energy: **HB 555, SB 14, SB 101, HB 521.**

Business Organizations and Professions: **HB 517, HB 246, HB 337, HB 469, HB 493, HB 495, HB 557, HB 562, SB 105.**

Education: **HB 295, HB 404, HB 520, HB 591, HB 606, SB 24, SB 26, SB 108, SB 154.**

Report of Committees

The Committee on Health and Welfare reported **HB 417, HB 418,** and **HB 483** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 417, AN ACT relating to abortion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.723 is amended to read as follows:

(1) No abortion shall be performed except by a physician after either:

(a) He determines that, in his best clinical judgment, the abortion is necessary; or

(b) He receives what he reasonably believes to be a written statement signed by another physician, hereinafter called the "referring physician," certifying that in the referring physician's best clinical judgment the abortion is necessary, and, in addition, he receives a copy of the report form required by KRS 213.055.

(2) No abortion shall be performed except in compliance with regulations which the *cabinet* [~~department~~] shall issue to assure that:

(a) Before the abortion is performed, the pregnant woman shall have a private medical consultation either with the physician who is to perform the abortion or with the referring physician in a place, at a time and of a duration reasonably sufficient to enable the physician to determine whether, based upon his best clinical judgment, the abortion is necessary;

(b) The physician who is to perform the abortion or the referring physician will describe the basis for his best clinical judgment that the abortion is necessary on a form prescribed by the *cabinet* [~~department~~] as required by KRS 213.055; and

(c) Paragraph (a) of this subsection shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that an emergency exists on a form prescribed by the *cabinet* [~~department~~] as required by KRS 213.055.

(3) *No abortion of a viable unborn child shall be performed unless necessary to preserve the life or health of the woman. Before a physician may perform an abortion upon a pregnant woman after her unborn child has become viable, the physician shall first certify on a form prescribed by the cabinet as required by KRS 213.055 that the abortion is necessary to preserve the life or health of the woman and the medical indications for such abortion and the probable health consequences.*

(4) Notwithstanding any statute to the contrary, nothing in this chapter shall be construed as prohibiting a physician from prescribing or a woman from using birth control methods or devices, including, but not limited to, intrauterine devices, oral contraceptives, or any other birth control method or device.

Section 2. KRS 311.780 is amended to read as follows:

(1) No abortion shall be performed or prescribed knowingly after the unborn child may reasonably be expected to have reached viability, except when necessary to preserve the life or health of the woman. In those instances where an abortion is performed under this section, the person performing the abortion shall take all reasonable steps in keeping with reasonable medical practices to preserve the life and health of the child, including but not limited to KRS 311.760(2).

(2) Any physician who performs an abortion upon a woman carrying a viable unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where this would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize the other method or technique. In all cases where the physician performs an abortion upon a viable unborn child, the physician shall certify on a form prescribed by the cabinet as required by KRS 213.055 the available method or techniques considered and the reasons for choosing the method or technique employed.

(3) An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the attending physician shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child; provided that it does not pose an increased risk to the life or health of the woman.

(4) Subsection (3) shall not apply when, in the medical judgment of the performing physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician shall describe the basis of his medical judgment that an emergency exists on a form prescribed by the cabinet as required by KRS 213.055.

HB 418, AN ACT relating to fetal experimentation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Abortion" means the use of any instrument, drug, or technique to terminate the pregnancy of a

woman known to be pregnant with intent to cause fetal death;

(2) "Fetus" means any living individual organism of the species Homo sapiens from fertilization until live birth; and

(3) "Viability" means that stage of fetal development when, in the medical judgment of the attending physician based on the particular facts of the case before him, there is a reasonable likelihood of more than sustained survival of the fetus outside the womb, with or without artificial support.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No person shall experiment upon a fetus unless such experimentation is therapeutic to that fetus.

(2) No person shall intentionally perform an abortion with knowledge that the pregnant woman is seeking the abortion solely on account of the sex of the fetus.

(3) If the application of this Act to the period of pregnancy prior to viability is held invalid, then such invalidity shall not affect its application to the period of pregnancy subsequent to viability.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person who intentionally or recklessly violates the provisions of subsection 2(1) of this Act shall be guilty of a Class A misdemeanor.

(2) Any person who violates the provisions of subsection 2(2) of this Act shall be guilty of a Class A misdemeanor.

HB 483, AN ACT relating to the education and identification of hearing impaired children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

It is the intent of the general assembly in enacting this Act to identify infants with a hearing impairment, or with the potential of having a hearing impairment, to ensure that they receive the necessary medical and educational services as early as practical.

Section 2. KRS 213.050 is amended to read as follows:

(1) The attending physician or midwife shall sign and file a certificate of birth with the local registrar of the district in which the birth occurred within ten (10) days after the date of birth. The certificate shall be properly and completely filled out, and shall contain the name and social security number of the mother, father, and child, the date of signature, the address, and all the information required by this chapter. No physician or midwife shall refuse to file or delay the filing of a birth certificate because obstetrical fees have not been paid. If the mother of a child informs the physician, midwife, or a person prescribed by subsection (2) of this section that the child was born out of wedlock, the name of the father shall not be inserted in the birth certificate and the certificate of birth of said child shall be in the surname of the mother. However, the cabinet for human resources shall insert the full name and social security number of the father and the mother, and change the name of the child to the surname of the father if paternity is established in a legal action, or if an affidavit is filed stating that the affiant is the father of the child.

(2) If there is no attending physician or midwife, the father or mother of the child, or the head of the household, owner of the premises, or manager or superintendent of the public or private institution in which the birth occurred shall notify the local registrar, within ten (10) days after the date of birth, of the fact of the birth.

(3) Upon receipt of notice of birth, as provided in subsection (2) of this section, the local registrar shall then secure the necessary information to make a proper certificate of birth, and shall present it to the person who gave him notice of the fact of birth, who shall sign the certificate.

(4) The certificate of birth shall be prescribed and furnished by the cabinet for human resources and shall be designed with due consideration for national uniformity, *but after January 1, 1985 shall include at least one (1) question requiring information on the history of hereditary hearing loss in the infant's family.* All certificates shall be written legibly, in unfading ink, or typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for therein, or satisfactorily account for their omission except as provided in subsection (3) of KRS 199.570. If a certificate of birth is incomplete, the registrar shall immediately notify the informant, and require him to supply the missing items if they can be obtained.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Cabinet" means the cabinet for human resources.

(2) "Certificate" means the certificate of birth required by KRS 213.050.

(3) "Department" means the department for health services in the cabinet for human resources.

(4) "Hearing impaired infant" means a child under one (1) year of age who was born with, or who acquires, a hearing loss so severe that, unaided, cannot learn speech and language through normal channels.

(5) "High-risk infant" means a child under one (1) year of age who exhibits any one of the following factors or conditions found frequently with hearing loss which include, but are not limited to:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose or throat anomalies;

(d) Below normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea; and

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate and respiration.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The department shall conduct the activities necessary to identify hearing impaired and high-risk infants and establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic, and medical services at a minimal cost, and refer the parents to agencies or organizations which provide educational programs for the child and the family. Services shall be provided, to the extent possible, by existing agencies and organizations as close to the child's residence as possible.

(2) The department's process for identifying high-risk infants shall include a timely review of all birth certificates to identify the presence of factors determined to occur frequently with hearing loss. The review shall be conducted by persons trained to recognize the factors and conditions determined to be prevalent in high-risk infants. The department shall secure information missing from certificates which is relevant to identifying high-risk infants.

(3) The department shall involve agencies and organizations which provide services to deaf and hearing impaired children including, but not limited to, the department of education and the commission on the deaf and hearing impaired in the planning for and the implementation of this Act. Cumulative demographic data of identified high risk infants shall be made available to agencies and organizations requesting such information for planning purposes.

Section 5. To carry out the purposes of this Act, there is appropriated to the cabinet for human resources, department for health services out of the General Fund in the State Treasury the sum of $160,450 for the 1984-85 fiscal year and $168,500 for the 1985-86 fiscal year.

The Committee Amendment No. 1 to **HB 483** is as follows:

Amend printed copy of **HB 483,** on page 3, line 3, by deleting the following: "*, but after January 1, 1985 shall include at*";

and by deleting lines 4 and 5 in their entirety except for the period after the word "*family*";

and by inserting between lines 14 and 15 the following new subsection:

"*(5) After January 1, 1985, each certificate of birth filed shall also have filed with it a hearing loss reporting form, the format of which shall be prescribed by the cabinet but which shall include whether the infant exhibited any factors or conditions found frequently with hearing loss as described in subsection (3) of Section 3 of this Act. No certificate of birth filed shall be considered complete unless the hearing loss reporting form is also completed and on file. The attending physician or midwife shall complete and file with the cabinet the hearing loss reporting form.*";

and on page 3, by deleting lines 21 through 24 in their entirety;

and on line 25, by renumbering subsection "*(4)*" as subsection "*(2)*"

and on page 4, line 3, by renumbering subsection "*(5)*" as subsection "*(3)*";

and on page 4, line 18, by deleting "*department*" and inserting in lieu thereof the word "*cabinet*";

and on page 5, line 3, by deleting the word "*department's*" and inserting in lieu theeof the word "*cabinet's*";

and on page 5, line 5, by deleting the words "*birth certificates*" and inserting in lieu thereof the words: "*hearing loss reporting forms*";

and on line 9, by deleting the words "*The department shall secure informa-*";

and by deleting lines 10 and 11 in their entirety;

and on line 12, by deleting the word "*department*" and inserting in lieu thereof the word "*cabinet*".

Motions, Petitions, and Communications (continued)

The following meetings were announced:

Budget Review on Human Resources: 12 noon, Wednesday.

Committee on Rules: On adjournment, State Reception Room.

Majority Caucus: 15 minutes after adjournment, Room 109.

Agriculture and Small Business: 9:00 a.m., Wednesday.

Budget Review on Commerce: On adjournment, Wednesday, Room 12.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 270** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-2:53 p.m.)

HB 270 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions, and Communications (continued)

Representative Deskins moved that **SB 46** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Reinhardt, **HB 38;** Representative Harper, **HB 33, HB 434, HB 426, HB 418;** Representative Yates, **HB 588, HB 589.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **SB 19,** by Representative Guenthner:

Amend printed copy of **SB 19,** on page 2, line 9, after the word "*teachers*" by adding the following language:

"*and out-of-state teachers with less than two (2) years teaching experience who are seeking initial certification in Kentucky*"

On page 2, line 21, after the word "*issued.*" by adding the following language:

"*(5) Effective January 1, 1985, all teachers currently certified and teaching, and all teachers subsequently certified to teach, in the common schools of Kentucky and out-of-state teachers with more than* *two (2) years teaching experience who are seeking certification in Kentucky shall be required to successfully complete the tests specified in subsection (4) of this section as a condition of continued certification and shall at five (5) year intervals thereafter, successfully complete such tests as a condition of certificate renewal in addition to other conditions for certificate renewal established by the state board of education. The state board of education shall promulgate regulations pursuant to carrying out the provisions of this subsection.*"

On page 2, line 22, by deleting the number "*(5)*" and inserting the number "*(6)*"

On page 3, line 7, after the word "*met.*" by deleting all remaining language on lines 7 through 11.

Renumber subsections 6, 7, 8, 9 and 10 as subsections 7, 8, 9, 10 and 11.

Floor Amendment No. 5 to **HB 119,** by Representative Guenthner:

Amend printed copy of Committee Substitute to **HB 119,** on page 14, line 2, before the word, "*The*" insert the following phrase: "*Except in cities of the first class,*"; and on that same line, delete the word: "*county*"

Floor Amendment No. 6 to **HB 119,** by Representative Nett:

Amend printed copy of Committee Substitute to **HB 119,** on page 3, line 14, add the following new subsection:

"*(3) The provisions of Sections 1-9 of this Act shall not apply to police officers employed by a city of the first class or a county containing a city of the first class.*"

And on page 11, line 14, delete the phrase beginning with the word "*in*" and ending with the figure "*78.440*" on line 19

And on page 14, line 22, add the following new section and renumber Sections 10 through 17 as Sections 12 through 19 accordingly:

SECTION 10. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The following rights shall be afforded police officers employed by a city of the first class:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, shall be taken under oath in the form of an affidavit, signed, and sworn to by the complainant and duly notarized.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion.

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing; however, such police officer may be required to submit a written report of the alleged incident no later than the end of the tour of duty in which the incident is alleged to have occurred.

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to the right to remain silent, the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of such charges.

(e) Any charge involving violation of any city rule or regulation shall be made in writing with sufficient specificity to as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself. Said charge shall be served on the police officer in writing.

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the city or the police officer so charged, until final disposition of the charges.

(g) No police officer as a condition of continued employment by the city shall be compelled to speak or testify or be questioned by any person or body of a non-governmental nature.

(2) If, in a city of the first class, an officer has the right to a hearing conducted by the appointing authority or the civil service board pursuant to KRS 90.190, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer:

(a) The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing.

(b) Copies of any sworn statements or affidavits to be considered by the hearing authority shall be furnished to the police officer no less than twenty-four (24) hours prior to the time of the hearing.

(c) If the hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested.

(d) If the return receipt, as hereinabove referred to, has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice.

(e) The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel.

(f) The accused police officer shall be allowed to have presented witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and shall have the right to cross-examination of any and all witnesses called by the charging party.

(g) If a police officer entitled to a hearing pursuant to KRS 90.190(1) is not given a hearing within sixty (60) days of the written demand, unless justifiable cause is given for the continuance, the charges shall be dismissed with prejudice and not be considered by any administrative adjudicating body; however a police officer who has appealed a disciplinary action may agree to a continuance to a date certain.

(3) As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers in a city of the first class by statute, ordinance or working agreement.

SECTION 11. A NEW SECTION OF KRS CHAPTER 78 IS CREATED TO READ AS FOLLOWS:

(1) The following rights shall be afforded police officers employed by a county containing a city of the first class:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, shall be taken under oath in the form of an affidavit, signed, and sworn to by the complainant and duly notarized.

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during such period shall not be deemed coercion.

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing; however, such police officer may be required to submit a written report of the alleged incident no later than the end of the tour of duty in which the incident is alleged to have occurred.

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal

investigation he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to the right to remain silent, the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of such police officer pending disposition of such charges.

(e) Any charge involving violation of any county police merit board or departmental rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself. Said charge shall be served on the police officer in writing.

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the county or the police officer so charged, until final disposition of the charges.

(g) No police officer as a condition of continued employment by the county shall be compelled to speak or testify or be questioned by any person or body of a non-governmental nature.

(2) If, in a county containing a city of the first class, an officer has the right to a hearing conducted by the county police merit board, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer:

(a) The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing.

(b) Copies of any sworn statements or affidavits to be considered by the county police merit board shall be furnished bo the police officer no less than twenty-four (24) hours prior to the time of the hearing.

(c) If the hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested.

(d) If the return receipt, as hereinabove referred to, has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the county police merit board and shall be dismissed with prejudice.

(e) The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel.

(f) The accused police officer shall be allowed to have presented witnesses and any documentary evidence the police officer wishes to provide to the county police merit board, and shall have the right to cross-examination of any and all witnesses called by the charging party.

(g) Any police officer who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, said charge shall be dismissed with prejudice and not be considered by the county police merit board.

(3) Any police officer who shall be found guilty by the county police merit board of any charge may bring an action in circuit court of the county contest the action of the board, and said action shall be tried as an original action by the court.

(4) As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers in a county containing a city of the first class by statute, ordinance or working agreement.

And on page 13, line 26, delete the figure "*96*" and insert in lieu thereof, the figure "*95B*"

And on page 24, line 15 and 16, delete the new, underlined language "*other than police officers*"

And on page 15, line 26, page 16, line 26, page 17, line 8, page 17, line 24, page 18, line 1, page 18, line 9, page 19, line 2, page 19, line 10, page 19, line 21, page 20, lines 3 and 4, page 20, line 1, page 20, line 25, and page 21, lines 2 and 3, delete underlined figure, "*78.440*" and delete brackets around and strike throughs, "KRS 78.160"

And on page 21, line 14, between the words "*officer*" and "*may*", insert the phrase: "*employed by a county not containing a city of the first class,*"

And on page 24, line 12, insert the following new sections and renumber sections 18 through 25 as sections 24 through 30 accordingly:

Section 20. KRS 78.445 is amended to read as follows:

(1) *In any county containing a city of the first class,* any officer or employe may be removed, suspended, laid off, reduced in grade, or fined by the chief for any cause which will promote the efficiency of the service, but before any such action is taken by the chief against any officer or employe, the chief shall furnish the officer or employe concerned with a written statement of the reasons why the described action is taken. The officer or employe may be reduced, removed, suspended, laid off or fined from the date when such written statement of reasons is served upon him. Each officer or employe removed, suspended, laid off, reduced in grade, or fined, shall be allowed a period of ten (10) days within which he may file written answer to the charges and reasons which caused his suspension, removal, reduction or fine, which shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except in the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for his action to the board.

(2) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any police officer hereunder shall present the charges to the chief of police, who shall investigate said charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

Section 21. KRS 78.450 is amended to read as follows:

(1) *In any county containing a city of the first class,* the board shall also have the right to remove, reduce, suspend, lay-off, fine or discipline any officer or employe covered by the provisions hereof on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the officer or employe accused shall have the right to be present and represented by counsel and confronted by all of the witnesses preferring the charges against him. Every such employe or officer shall be given the right within ten (10) days after charges are initiated by the board or a private citizen and before the public hearing prescribed herein, to file written answer to the charges preferred against him.

(2) After full public hearing by the board, the board may retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. In no case shall the board in executive session receive any further evidence or communication from any source whatsoever prior to reaching its determination and conclusion.

(3) Before the board shall remove, reduce, suspend, lay-off, fine or discipline any officer or employe covered by the provisions hereof, the charges against said officer must be presented to the officer in writing and shall be specific as to the nature of the charge or charges, giving specific, detailed information so as to allow said officer to be able to properly defend himself.

Section 22. KRS 78.455 is amended to read as follows:

In all cases provided for in *Sections 20 and 21* [~~KRS 78.445 and 78.450~~], the action of the chief or of the board shall be final except in the following cases:

(1) Every action in the nature of a dismissal, suspension, reduction or fine made by the chief, shall be subject to review by the board at the request of any officer or employe *of a police department in a county containing a city of the first class,* [~~affected by KRS 78.400 to 78.460~~], and the board shall give notice and hold a public hearing with respect thereto, and in any case where, after such public hearing, a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, then the order of the chief may be set aside and revoked by the board and the board may impose such penalty or punishment as it may deem necessary and appropriate, if any.

(2) (a) Every action in the nature of a dismissal, suspension, reduction or fine made by the board shall be final, except that any person aggrieved thereby may, within twenty (20) days after the rendition of such action, appeal to the circuit court of the county in which the board meets. The board shall be named respondent as the county police force merit board, and service shall be had on the chairman thereof. The appeal taken to the circuit court shall be docketed by the clerk thereof as a civil action and shall be tried anew, as if no action had been rendered by the board.

(b) The judgment of the circuit court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in civil action.

Section 23. KRS 78.460 is amended to read as follows:

In a county containing a city of the first class, procedural due process shall be afforded to all police officers by the board. The board shall afford any officer, promptly and in writing, of any charges brought against said officer by the board. The officer shall be given a prompt hearing by the board, shall have an opportunity to confront his accusers and the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, and so far as practicable, conduct said hearing within the Kentucky Rules of Civil Procedure. Any officer who is not given a hearing within sixty (60) days of any charge so placed shall be reinstated in full.

And on page 27, line 7, delete subsection (6) in its entirety through line 9

An on page 43, delete in their entirety, lines 8 through 14.

Floor Amendment No. 1 to **HB 224,** by Representative T. Jones:

Amend printed copy of Committee Substitute to **HB 224** on page 1, line 7, by deleting the word "*shall*" and inserting in lieu thereof: "*may*"; and

on page 1, line 7, by deleting the word "*and*" and inserting in lieu thereof: "*or*"; and

on page 1, line 8, by deleting the word "*without*" and inserting in lieu thereof: "*with*"; and

on page 1, line 8, by deleting the words "*No other ordinance shall be enacted*"; and

on page 1, line 9, by deleting it in its entirety; and

on page 1, line 10, by deleting it in its entirety.

Floor Amendment No. 2 to **HB 224,** by Representative T. Jones.

Amend printed copy of Committee Substitute to **HB 224,** on page 1, line 6, by deleting the words "*If adopted*"; and

on page 1, line 7, by deleting it in its entirety; and

on page 1, line 8, by deleting it in its entirety; and

on page 1, line 9, by deleting it in its entirety; and

on page 1, line 10, by deleting it in its entirety.

Floor Amendment No. 3 to **HB 224,** by Representative T. Jones:

Amend printed copy of Committee Substitute to **HB 224,** on page 34, after line 9, by adding the following:

A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

"*The provisions of this Act shall apply only to those cities, counties and urban county governments in which there are located structures primarily used as a residence which contain more than ten (10) stories or levels or structures which house more than five hundred (500) people each.*"

Floor Amendment No. 4 to **HB 224,** by Representative T. Jones:

Amend printed copy of Committee Substitute to **HB 224,** on page 34, after line 9, by adding the following:

A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

"*In those jurisdictions where the Uniform Residential Landlord and Tenant Act is not in effect, a tenancy at will or by sufferance may be terminated by the landlord giving one (1) month's notice, in writing, to the tenant requiring him to remove.*"

Floor Amendment No. 1 to **HB 258**, by Representative Morris:

Amend printed copy of **HB 258** on page 1, line 11, by deleting the word "*impairment*"

on page 1, line 12, by deleting the brackets and strikethroughs

on page 1, line 16, by deleting the word "*impairment*", and by deleting the brackets and strikethroughs.

Floor Amendment No. 1 to **HB 367**, by Representative Clarke:

Amend printed copy of **HB 367**, on page 6, after line 10, by adding the following:

(c) Notwithstanding the provisions of paragraph (b) of this subsection, the deduction allowed for fifteen (15) year public utility property shall be the total allowed for such property under Section 168 of the Internal Revenue Code.

Page 7, lines 18, 20, and 22, by relettering subsequent paragraphs to conform;

Page 10, after line 8, by adding the following:

Section 2. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture *of* [~~or~~] electricity;

(3) All energy or energy-producing fuels, *other than coal for the manufacture of electricity,* used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(11) Tombstones and other memorial grave markers; and

(12) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities;

(13) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines

or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(14) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(15) Any property which has been certified as an alcohol production facility as defined in KRS 247.910; and

(16) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property for hire. Nominal intrastate use will not subject the property to the taxes imposed by this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

The exemption granted under the provisions of KRS 139.480(2) shall be reduced by the amount, if any, by which:

(1) The greater of:

(a) The severance tax imposed by KRS 143.020, or

(b) The severance tax which would have been imposed if such coal had been subject to KRS 143.020,

(2) Exceeds the severance tax actually imposed on any coal exempted by KRS 139.480(2) and (3).

Section 4. It is the intent of the General Assembly that if the provisions of Section 3 of this Act are declared unconstitutional, the provisions of KRS 141.010(13)(c) shall be invalid and shall have no effect.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, February 15, 1984.

On the roll call the vote was yeas 72-Allen, Arnold, Bendl, Bennett, Blevins, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Gray, Hancock, Harper, Head, Hines, Holbrook, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 6-Deskins, Handy, Holloway, Maggard, Overstreet, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 15, 1984

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Canon J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 14, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 118, SB 135, SB 158, SB 164, SB 179, SB 180, SB 184, SB 186,** and **SB 189.**

Introduction of Bills and Resolutions

HB 635, by Representative Meyer: AN ACT relating to product liabilities.

HB 636, by Representative Mann and Bendl: AN ACT relating to privileged communications between sexual assault counselors and sexual assault victims.

HB 637, by Representatives T. Jones, Farrow, Long, Barrows, Hancock, Crupper, and Rapier: AN ACT relating to the Kentucky employes retirement system.

HB 638, by Representative List: AN ACT relating to property assessments.

HB 639, by Representative List: AN ACT relating to publication of notices.

HB 640, by Representative LeMaster: AN ACT relating to federal block grants.

HB 641, by Representative Guenthner: AN ACT changing the classification of the City of Prospect in Jefferson County.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following bills and resolutions:

Agriculture and Small Business: **HR 61.**

Appropriations and Revenue: **HB 621, HB 623, HB 625, HB 633.**

Counties and Special Districts: **HB 616, HB 620.**

Cities: **HR 53.**

Education: **HB 617, HB 618, HB 630.**

Energy: **HB 619.**

Judiciary-Civil: **HB 629.**

Judiciary-Criminal: **HB 631.**

State Government: **HB 622, HB 624, HB 627, HB 628, HB 632, HB 634, HCR 60, HJR 62.**

Transportation: **HB 626, SB 107, SB 134.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Energy: **HB 598.**

Labor and Industry: **HB 271, HB 386.**

Agriculture and Small Business: **HB 602.**

Report of Committees

The Committee on Rules reported **HB 365, HB 398, HB 478, SB 89, HB 220, HB 245, SB 39,** and **HB 14** have been posted for passage in Orders of the Day, February 16, 1984.

The Committee on Rules reported **SB 19** and **HB 324** have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Rules report **SB 11** has been recommitted to the Committee on Agriculture and Small Business.

The Committee on Agriculture and Small Business reported **HR 48** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 48, A RESOLUTION urging Congress to increase the tariff and to impose a quota on imported raw tobacco.

WHEREAS, the quality of imported raw tobacco is inferior to American-grown tobacco; and

WHEREAS, the income to American tobacco growers from the sale of the most recent tobacco crop is about one-half of the previous year's income; and

WHEREAS, farm foreclosures and farm bankruptcies are the highest since the Great Depression; and

WHEREAS, the income from tobacco is essential to many American farmers, especially the many farmers growing only a few acres of tobacco; and

WHEREAS, the very existence of America's tobacco farmers is threatened at home and from abroad;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Congress is urged to double the current tariff on raw imported tobacco and to impose a quota on raw tobacco imports which would reduce the current imports by 25 percent.

Section 2. That copies of this resolution be sent to Kentucky's Congressional Delegation, the Secretary of the U.S. Department of Agriculture, the Commissioner of the Kentucky Department of Agriculture, the Kentucky Farm Bureau Federation, Inc., and the Kentucky National Farmers Organization.

The Committee on Cities reported **HB 371, HB 462, HB 467** with Committee Amendment attached thereto, and **SB 35** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 371, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system, *except that city managers or other appointed local government executives who participate in a retirement system, other than social security, which operates in more than one (1) state, may decline to participate in the system*; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.510 to 78.852.

HB 462, AN ACT relating to political activity of urban-county government employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.310 is amended to read as follows:

(1) No person shall be appointed to any position because of political, partisan service rendered by him or his family, or because of political sentiment or affiliation nor shall any person be dismissed, *suspended* or reduced in grade *or pay* because of any political opinion.

(2) *The appointment and continuance of employment of all persons shall depend solely upon their ability and willingness to perform their duties, and shall not be a reward for political activity or contribution to campaign funds* [~~No employe shall coerce or persuade another or in any way to actively participate in any election, or cause others to do so~~].

(3) No employe shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No employe shall be active in politics or work for the election of candidates while on duty.

HB 467, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. His term of office shall begin on the *tenth day* [~~first Monday~~] of January following his election and shall be for four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the legislative body of the city shall fill the vacancy within thirty (30) days.

(3) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the tenth day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(4) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

(5) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(6) Except in cities of the first class, any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the

expiration of the term to which originally elected.

The Committee Amendment No. 1 to **HB 467** is as follows:

Amend printed copy of **HB 467** on page 1, line 5, delete the word "*tenth*" and insert in lieu thereof: "*first*";

and on page 1, line 16, between the words "the" and "tenth" insert: "*first*" and place brackets around and strike through the word "tenth".

SB 35, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) In order to equate the compensation of mayors and members of city legislative bodies with the purchasing power of the dollar, the finance and administration cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky which provides that the mayor in cities of the first class shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum and mayors in cities other than the first class and legislative body members shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum.

(2) The legislative body of the city shall set the compensation of the officer in accordance with KRS 83A.070 at a rate no greater than that stipulated by the finance and administration cabinet.

The Committee on Health and Welfare reported **HB 33** with Committee Substitute attached thereto, **HB 98** with Committee Substitute attached thereto, and **HB 298** with Committee Substitute attached thereto, with the express of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 33, AN ACT relating to persons with developmental disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 347 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The general assembly of the Commonwealth of Kentucky hereby finds and declares that:

(1) A complete, effective system of services and care provided to persons with developmental disabilities must be coordinated, consistent, monitored and designed to meet the needs of those persons as well as to protect their legal and human rights;

(2) The current system of services and care for persons with developmental disabilities needs substantial improvement in order to provide an array of services which allows active treatment and habilitation; and

(3) It is necessary to require:

(a) The identification and evaluation of, and the development and provision of services and active treatment for, persons with developmental disabilities;

(b) Interagency development, coordinated planning and implementation of active treatment and service programs which are the least restrictive and individually appropriate for persons with developmental disabilities, while safeguarding their legal and human rights;

(c) Development and provision of programs in the public and private sectors for the habilitation and active treatment of persons with developmental disabilities; and

(d) Establishment of an array of comprehensive services and residential alternatives in the public and private sectors to allow persons with developmental disabilities the opportunity to live in the least restrictive, individually appropriate environment;

(4) The provisions of this Act shall be construed to protect and promote the continuing development and maintenance of physical, mental and social skills of persons with developmental disabilities;

(5) This Act shall not alter requirements and responsibilities mandated under any state or federal act,

relieve any organizational unit or administrative body of its duties under said acts or transfer among state organizations or administrative bodies any responsibilities, powers or duties mandated by said acts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Active treatment" means provision of services as specified in an individualized service plan. These services may include, but are not limited to activities, experiences and therapy which are part of a professionally developed and supervised program of health, social, habilitative and developmental services;

(2) "Case management services" means all such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, legal, educational and other services, and such term includes:

(a) Follow-along services which assure, through a continuing relationship between an agency or provider and a person with a developmental disability and the person's parent or guardian, if legally appropriate, that the changing needs of the person and the family are recognized and appropriately met; and

(b) Coordinated services which provide to persons with developmental disabilities support, access to, and coordination of other services, information on programs and services and monitoring of the person's progress;

(3) "Habilitation" means the process described in the individualized service plan by which a person is assisted to acquire and maintain physical, mental and social skills which will enable him to live most efficiently and effectively in the least restrictive individually appropriate environment;

(4) "Individualized service plan (ISP)" means a written plan of service based on an interdisciplinary approach which is revised as needed but no less than annually. The plan shall be developed by the interdisciplinary team and shall contain a statement of:

(a) The nature of the specific mental, physical, social and developmental needs of the person;

(b) The specific services to be provided under this Act, those services being provided under other state and federal laws and a schedule for the provision of said services;

(c) The least restrictive individually appropriate environment for the provision of services and active treatment;

(5) "Individually appropriate" means responsive to the needs of the person as determined through interdisciplinary assessment and provided pursuant to an individualized service plan;

(6) "Interdisciplinary team (IDT)" means those persons who work most directly with the individual in each of the professions, disciplines and service areas that provide active treatment, services and evaluations for the person, including the person with a developmental disability, his representative and when legally appropriate, his parent or guardian. Prior to relocation to a more individually appropriate placement in accordance with his individualized service plan, the IDT shall include representatives from the current placement and representatives from the proposed placement;

(7) "Least restrictive environment" means the individually appropriate residence and service delivery setting, including the entire array of residential alternatives as defined by this Act, in which the person can function most effectively and independently, gaining to the maximum extent possible, control over his environment, and shall be based solely on his needs as identified in his individualized service plan. This definition shall not be construed to abolish any existing residential alternatives as defined by this Act;

(8) "Monitor" means to conduct a systematic, coordinated, objective qualitative review of services by a body independent of the agencies providing services under this Act. This body shall include persons with developmental disabilities, parents, guardians and professionals;

(9) "Person with a developmental disability" means a person with a long term disability which:

(a) Is attributable to a developmental or physical impairment or combination of developmental and physical impairments;

(b) Is likely to continue indefinitely;

(c) Results in substantial functional limitations in at least three (3) of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency;

(d) Requires special, generic or interdisciplinary care and active treatment and services of extended duration;

(e) Is manifested before the person attains age twenty-two (22);

(10) "Representative" means a person who, at the request of the person with a developmental disability or, when legally appropriate, the person's parent or guardian, can advise and advocate for that person;

(11) "Residence" or "residential alternative" means the living space occupied by the person with a developmental disability, including single-person homes, natural family homes, institutional facilities and all other types of living arrangements; and

(12) "Services" means such residential, developmental, vocational, support and related services, training and active treatment in the least restrictive, individually appropriate environment to provide for

continuing development of independent or interdependent living skills of persons with developmental disabilities. These services include, but are not restricted to, diagnostic services; child development services; respite care; domestic assistance; consumer-directed attendant care; habilitation and rehabilitation; speech, physical and occupational therapy; recreational therapy and activities; training for parents, guardians and care providers as requested by said persons; transportation; equipment; development of language and communication skills; interpreters; family counseling and case management.

SECTION 3. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

(1) Rights enumerated in this Act including the right to accept or reject services, active treatment and residential alternatives, shall be exercised by the person with a developmental disability, the person's parent or next-of-kin if the person is a minor or the person's guardian if the person's specific decision-making rights have been rescinded through guardianship proceedings;

(2) Each person with a developmental disability shall have the opportunity to reside in the least restrictive, individually appropriate residential alternative located as close as possible to his home community;

(3) Each person with a developmental disability, to the extent it is individually appropriate, shall have the right to:

(a) Interact with nondisabled people in a nontreatment, nonservice oriented setting;

(b) Live with or in close proximity to nondisabled persons;

(c) Live in a setting which closely approximates those conditions available to nondisabled persons of the same age;

(4) Nothing in subsection (3) of this section shall be construed to abolish any existing residential alternatives as defined by this Act;

(5) Each person with a developmental disability and his representative, and where legally appropriate, his parent or guardian shall have the right to participate in the development of objectives in his ISP, including, but not limited to:

(a) Intermediate and long-range active treatment and service goals, including specific goals to facilitate the development and retention of daily living skills necessary for living in the least restrictive, individually appropriate residential alternative as defined by this Act, with a projected timetable for their attainment;

(b) The person's schedule of service activities, including the least restrictive, individually appropriate service settings to be utilized for the implementation of each goal and objective identified; and

(c) The specific services to be offered the person to attain these goals;

(2) Any person relocated from an institutional to a noninstitutional setting or from a noninstitutional to an institutional setting for whom it is subsequently determined and reflected in his individualized service plan that the initial setting is the individually appropriate environment, shall have the following rights:

(a) To receive a maximum of thirty (30) days of individually appropriate respite care initiated within twenty-four (24) hours of the decision for the person to relocate to the initial setting;

(b) To be placed as soon as possible but no later than thirty (30) days in the initial residential alternative from which he was transferred or any other individually appropriate residential alternative approved, as legally appropriate, by the person or his parent or guardian;

(c) To not be placed in an intermediate care nursing facility, skilled nursing facility or mental health facility, unless recommended by the interdisciplinary team, approved by the person or, as legally appropriate, his parent or guardian, and supported by documented medical need; or in any penal institution or facility; and

(d) To be transferred no more than three (3) times within the thirty (30) days allowed for respite care, except in a crisis situation, as defined by the interdisciplinary team;

(7) Each person with a developmental disability shall have a right to receive least restrictive individually appropriate services, including a daily program of activities outside the residence in accordance with his individualized service plan;

(8) In a manner consistent with the rights of privacy of a person with a developmental disability such a person shall have a right to be referred for medical and dental care and shall have the right to reasonable access to review medical, service and treatment files, to be informed of diagnoses, and to receive a copy of his individualized service plan;

(9) A person who requests services under this Act or who is identified as a person with a developmental disability, and, when legally appropriate, his parent or guardian, shall be informed orally and in writing of the contents of this Act, including the rights guaranteed under this Act;

(10) Any person with a developmental disability injured by a violation of this Act shall have a cause of action for injunctive relief and actual damages to be brought in the circuit court in which the alleged violation occurred or in which a plaintiff resides. A successful plaintiff shall be awarded costs and reasonable attorneys' fees; and

(11) Rights enumerated in this Act shall not be construed to replace or limit any other rights, benefits, or privileges, including other statutory and regulatory due process rights and protections.

SECTION 4. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

(1) The secretaries of the cabinet for human resources and the education and humanities cabinet shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this Act in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the legislative research commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential alternatives and services and documentation of the success of these efforts;

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources and the education and humanities cabinet shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this Act, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this Act; and

(g) A fair, timely and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, and the protection of the rights of persons with developmental disabilities under this Act.

(2) Implementation of this Act providing for the orderly development of services and coordination among organizational units, administrative bodies and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

The Committee Substitute to **HB 33** is as follows:

HB 33, AN ACT relating to persons with developmental disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 347 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The general assembly of the Commonwealth of Kentucky hereby finds and declares that:

(1) A complete, effective system of services and care provided to persons with developmental disabilities must be coordinated, consistent, monitored and designed to meet the needs of those persons as well as to protect their legal and human rights;

(2) The current system of services and care for persons with developmental disabilities needs substantial improvement in order to provide an array of services which allows active treatment and habilitation; and

(3) It is necessary to require:

(a) The identification and evaluation of, and the development and provision of services and active treatment for, persons with developmental disabilities;

(b) Interagency development, coordinated planning and implementation of active treatment and service programs which are the least restrictive and individually appropriate for persons with developmental disabilities, while safeguarding their legal and human rights;

(c) Development and provision of programs in the public and private sectors for the habilitation and active treatment of persons with developmental disabilities; and

(d) Establishment of an array of comprehensive services and residential alternatives in the public and private sectors to allow persons with developmental disabilities the opportunity to live in the least restrictive, individually appropriate environment;

(4) The provisions of this Act shall be construed to protect and promote the continuing development and maintenance of physical, mental and social skills of persons with developmental disabilities;

(5) This Act shall not alter requirements and responsibilities mandated under any state or federal act, relieve any organizational unit or administrative body of its duties under said acts or transfer among state organizations or administrative bodies any responsibilities, powers or duties mandated by said acts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Active treatment" means provision of services as specified in an individualized service plan. These services may include, but are not limited to activities, experiences and therapy which are part of a professionally developed and supervised program of health, social, habilitative and developmental services;

(2) "Case management services" means all such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, legal, educational and other services, and such term includes:

(a) Follow-along services which assure, through a continuing relationship between an agency or provider and a person with a developmental disability and the person's parent or guardian, if legally appropriate, that the changing needs of the person and the family are recognized and appropriately met; and

(b) Coordinated services which provide to persons with developmental disabilities support, access to, and coordination of other services, information on programs and services and monitoring of the person's progress;

(3) "Habilitation" means the process described in the individualized service plan by which a person is assisted to acquire and maintain physical, mental and social skills which will enable him to live most efficiently and effectively in the least restrictive individually appropriate environment;

(4) "Individualized service plan (ISP)" means a written plan of service based on an interdisciplinary approach which is revised as needed but no less than annually. The plan shall be developed by the interdisciplinary team and shall contain a statement of:

(a) The nature of the specific mental, physical, social and developmental needs of the person;

(b) The specific services to be provided under this Act, those services being provided under other state and federal laws and a schedule for the provision of said services;

(c) The least restrictive individually appropriate environment for the provision of services and active treatment;

(5) "Individually appropriate" means responsive to the needs of the person as determined through interdisciplinary assessment and provided pursuant to an individualized service plan;

(6) "Interdisciplinary team (IDT)" means those persons who work most directly with the individual in each of the professions, disciplines and service areas that provide active treatment, services and evaluations for the person, including the person with a developmental disability, his representative and when legally appropriate, his parent or guardian. Prior to relocation to a more individually appropriate placement in accordance with his individualized service plan, the IDT shall include representatives from the current placement and representatives from the proposed placement;

(7) "Least restrictive environment" means the individually appropriate residence and service delivery setting, including the entire array of residential alternatives as defined by this Act, in which the person can function most effectively and independently, gaining to the maximum extent possible, control over his environment, and shall be based solely on his needs as identified in his individualized service plan. This definition shall not be construed to abolish any existing residential alternatives as defined by this Act;

(8) "Monitor" means to conduct a systematic, coordinated, objective qualitative review of services by a body independent of the agencies providing services under this Act. This body shall include persons with developmental disabilities, parents, guardians and professionals;

(9) "Person with a developmental disability" means a person with a long term disability which:

(a) Is attributable to a developmental or physical impairment or combination of developmental and physical impairments;

(b) Is likely to continue indefinitely;

(c) Results in substantial functional limitations in at least three (3) of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency;

(d) Requires special, generic or interdisciplinary care and active treatment and services of extended duration;

(e) Is manifested before the person attains age twenty-two (22);

(10) "Representative" means a person who, at the request of the person with a developmental disability or, when legally appropriate, the person's parent or guardian, can advise and advocate for that person;

(11) "Residence" or "residential alternative" means the living space occupied by the person with a developmental disability, including single-person homes, natural family homes, institutional facilities and all other types of living arrangements; and

(12) "Services" means such residential, developmental, vocational, support and related services, training and active treatment in the least restrictive, individually appropriate environment to provide for continuing development of independent or interdependent living skills of persons with developmental disabilities. These services include, but are not restricted to, diagnostic services; child development services; respite care; domestic assistance; consumer-directed attendant care; habilitation and rehabilitation; speech, physical and occupational therapy; recreational therapy and activities; training for parents, guardians and care providers as requested by said persons; transportation; equipment; development of language and communication skills; interpreters; family counseling and case management.

SECTION 3. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

(1) Rights enumerated in this Act including the right to accept or reject services, active treatment and residential alternatives, shall be exercised by the person with a developmental disability, the person's parent or next-of-kin if the person is a minor or the person's guardian if the person's specific decision-making rights have been rescinded through guardianship proceedings;

(2) Each person with a developmental disability shall have the opportunity to reside in the least restrictive, individually appropriate residential alternative located as close as possible to his home community;

(3) Each person with a developmental disability, to the extent it is individually appropriate, shall have the right to:

(a) Interact with nondisabled people in a nontreatment, nonservice oriented setting;

(b) Live with or in close proximity to nondisabled persons;

(c) Live in a setting which closely approximates those conditions available to nondisabled persons of the same age;

(4) Nothing in subsection (3) of this section shall be construed to abolish any existing residential alternatives as defined by this Act;

(5) Each person with a developmental disability and his representative, and where legally appropriate, his parent or guardian shall have the right to participate in the development of objectives in his ISP, including, but not limited to:

(a) Intermediate and long-range active treatment and service goals, including specific goals to facilitate the development and retention of daily living skills necessary for living in the least restrictive, individually appropriate residential alternative as defined by this Act, with a projected timetable for their attainment;

(b) The person's schedule of service activities, including the least restrictive, individually appropriate service settings to be utilized for the implementation of each goal and objective identified; and

(c) The specific services to be offered the person to attain these goals;

(2) Any person relocated from an institutional to a noninstitutional setting or from a noninstitutional to an institutional setting for whom it is subsequently determined and reflected in his individualized service plan that the initial setting is the individually appropriate environment, shall have the following rights:

(a) To receive a maximum of thirty (30) days of individually appropriate respite care initiated within twenty-four (24) hours of the decision for the person to relocate to the initial setting;

(b) To be placed as soon as possible but no later than thirty (30) days in the initial residential alternative from which he was transferred or any other individually appropriate residential alternative approved, as legally appropriate, by the person or his parent or guardian;

(c) To not be placed in an intermediate care nursing facility, skilled nursing facility or mental health facility, unless recommended by the interdisciplinary team, approved by the person or, as legally appropriate, his parent or guardian, and supported by documented medical need; or in any penal institution or facility; and

(d) To be transferred no more than three (3) times within the thirty (30) days allowed for respite care, except in a crisis situation, as defined by the interdisciplinary team;

(7) Each person with a developmental disability shall have a right to receive least restrictive individually appropriate services, including a daily program of activities outside the residence in accordance with his individualized service plan;

(8) In a manner consistent with the rights of privacy of a person with a developmental disability such a person shall have a right to be referred for medical and dental care and shall have the right to reasonable access to review medical, service and treatment files, to be informed of diagnoses, and to receive a copy of his individualized service plan;

(9) A person who requests services under this Act or who is identified as a person with a developmental disability, and, when legally appropriate, his parent or guardian, shall be informed orally and in writing of the contents of this Act, including the rights guaranteed under this Act;

(10) Any person with a developmental disability injured by a violation of this Act shall have a cause of action for injunctive relief and actual damages to be brought in the circuit court in which the alleged violation occurred or in which a plaintiff resides; however, no cause of action shall accrue during the first two (2) years after the enactment of this Act. A successful plaintiff shall be awarded costs and reasonable attorneys' fees; and

(11) Rights enumerated in this Act shall not be construed to replace or limit any other rights, benefits, or privileges, including other statutory and regulatory due process rights and protections.

SECTION 4. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

(1) The secretaries of the cabinet for human resources and the education and humanities cabinet shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this Act in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the legislative research commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential alternatives and services and documentation of the success of these efforts;

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources and the education and humanities cabinet shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this Act, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this Act; and

(g) A fair, timely and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, and the protection of the rights of persons with developmental disabilities under this Act.

(2) Implementation of this Act providing for the orderly development of services and coordination among organizational units, administrative bodies and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 347 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources and the education and humanities cabinet may assess reasonable *charges for services rendered under this Act, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability.*

Section 7. (1) For the purpose of funding this Act, there is appropriated out of the general expenditure fund in the state treasury jointly to the cabinet for human resources and the education and humanities cabinet, $1,500,000 for fiscal year 1984-85 and $3,500,000 for fiscal year 1985-86.

(2) Of the $1,500,000 appropriated for fiscal year 1984-85, $100,000 shall be used in the development of a state plan and regulations to implement the disbursement mechanisms for the balance of the funds and to monitor the program thus implemented.

(3) The remainder of $1,400,000 from fiscal year 1984-85 together with any surplus from the $100,000 used in development in fiscal year 1984-85 and all of the $3,500,000 appropriated for fiscal year 1985-86 shall be disbursed equitably among all geographic areas of the state in response to proposals from public and private entities for programs which shall supplement and not supplant existing services and which are designed to serve persons who receive no services but who have developmental disabilities.

HB 98, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

"Boarding home" means any home, facility, institution, lodging or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the Kentucky health facilities and health services certificate of need and licensure board or any hotel as defined in KRS 219.011(4).

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a boarding home without registering, on an annual basis, with the local or regional health department for the county in which such boarding home is located and receiving authorization, in writing, from said health department to operate a boarding home. A registration fee of fifty dollars ($50) shall be paid to the local or regional health department at the time of registration. Before authorizing any person to operate a boarding home, the health department shall make or cause to be made, an investigation to determine whether safe and sanitary conditions exist in the boarding home in compliance with local health department regulations as developed by the office of local health within the department for human resources. When such authority has been granted by a health department, the same may be revoked at any time if it is determined by the health department that conditions in the boarding home are unsafe, unsanitary or out of compliance with local health regulations. Such authority shall only be revoked after notice to the person operating the boarding home and after an opportunity for a hearing, as provided by regulations of the department for human resources. The authorization to operate a boarding home shall expire annually on the date such authorization was granted at which time a renewal fee of fifty dollars ($50) shall be required.

(2) If the investigation required by subsection (1) of this section reveals that a person has falsely registered a boarding home that is operating as a personal or family care home as licensed and regulated by the Kentucky health facilities and health services certificate of need and licensure board, the health department shall immediately notify the division of licensing and regulation within the department for human resources, and shall not grant authorization to operate as a boarding home.

(3) Any person who operates a boarding home without registering and receiving authorization to do so, as required by subsection (1) of this section, or who falsely registers a boarding home as specified by subsection (2) of this section shall be guilty of a Class B misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The health department for each county in the Commonwealth shall on a quarterly basis notify the department for human resources, and the local agencies having jurisdiction in regards to the enforcement of fire safety and building codes, of all newly registered boarding homes in the county by name and address of the operator. Such list shall identify the ownership of the boarding home and the compliance status with pertinent laws and regulations if known.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS

FOLLOWS:

Nothing in this Act shall be construed as requiring registration by persons providing room or board or both to students attending institutions of higher education.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to any boarding home operated or regulated by the federal government.

The Committee Substitute to **HB 98** is as follows:

HB 98, AN ACT relating to boarding homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

"Boarding home" means any home, facility, institution, lodging or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the Kentucky health facilities and health services certificate of need and licensure board or any hotel as defined in KRS 219.011(4).

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a boarding home without registering, on an annual basis, with the county or district health department for the county in which such boarding home is located and receiving a permit from said health department to operate a boarding home. A permit fee in an amount to be established by regulation of the cabinet for human resources shall be paid to the county or district health department at the time of registration. Before granting a permit to any person to operate a boarding home, the health department shall make or cause to be made, an inspection to determine whether safe and sanitary conditions exist in the boarding home in compliance with regulations as developed by the cabinet for human resources. A permit granted by a health department may be revoked at any time if it is determined upon inspection by the health department that conditions in the boarding home are unsafe, unsanitary or out of compliance with regulations of the cabinet for human resources. Such permit shall only be revoked after notice to the person operating the boarding home and after an opportunity for a hearing, as provided by regulations of the cabinet for human resources. The permit to operate a boarding home shall expire annually on December 31, at which time a permit renewal fee in an amount to be established by regulation of the cabinet for human resources shall be required.

(2) If the inspection required by subsection (1) of this section reveals that a person has falsely registered a boarding home that is operating as a personal or family care home as licensed and regulated by the Kentucky health facilities and health services certificate of need and licensure board, the health department shall immediately notify the division of licensing and regulation within the cabinet for human resources, and shall not grant such facility a permit to operate as a boarding home.

(3) Any person who operates a boarding home without registering and receiving a permit to do so, as required by subsection (1) of this section, or who falsely registers a boarding home as specified by subsection (2) of this section shall be guilty of a Class B misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Each county or district health department in the Commonwealth shall on a quarterly basis notify the cabinet for human resources, and the local agencies having jurisdiction in regards to the enforcement of fire, safety and building codes, of all boarding homes registered and granted permits in the county by name and address of the operator. Such list shall also identify the ownership of the boarding home and the owner's address and the compliance status of the boarding home with pertinent laws and regulations if known.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed as requiring registration by and the granting of a permit to persons providing room or board or both to students attending institutions of higher education.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to any boarding home operated or regulated by the federal government.

HB 298, AN ACT relating to physical therapy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 327.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) “Physical therapy” means the use of selected knowledge and skills in planning, organizing, *modifying* and directing programs for the care of individuals whose ability to function is impaired or threatened by disease or injury, encompassing preventive measures, screening, *tests in aid of diagnosis,* [~~and~~] evaluation and invasive or noninvasive procedures with emphasis on the skeletal system, neuromuscular and cardiopulmonary function, as it relates to physical therapy. Physical therapy includes screening or evaluations performed to determine the degree of impairment of relevant aspects such as, but not limited to, nerve and muscle function including subcutaneous bioelectrical potentials, motor development, functional capacity and respiratory or circulatory efficiency. Physical therapy also includes *physical therapy treatment* [~~therapeutic procedures~~] performed upon referral by a licensed doctor of medicine, osteopathy, dentistry or podiatry including, but not limited to, exercises for increasing or restoring strength, endurance, coordination and range of motion, stimuli to facilitate motor activity and learning, instruction in activities of daily living and the use of assistive devices and the application of physical agents to relieve pain or alter physiological status. The use of roentgen rays and radium for diagnostic or therapeutic purposes, the use of electricity for surgical purposes, including cauterization and colonic irrigations are not authorized under the term “physical therapy” as used in this chapter.

(2) “Physical therapist” means a professional person who *has met the educational requirements of this chapter and who is licensed to practice* [~~practices~~] physical therapy *pursuant to this chapter.*

(3) “Board” means the state board of physical therapy established by KRS 327.030.

(4) “Referral” means the *protocol by which* [~~designation of~~] physical therapy *treatment is initiated* [~~procedures~~] by a licensed *physical therapist upon request by a licensed* doctor of medicine, osteopathy, dentistry or podiatry.

(5) “Temporary *permit*” [~~license”~~] means a *permit* [~~license~~] granted to an individual who *has met* [~~meets~~] all requirements *in Kentucky* for *license application by* examination and has made application for examination but who has not *yet successfully completed* [~~taken~~] the *board approved* examination *in this or another state.*

Section 2. KRS 327.020 is amended to read as follows:

(1) No person shall *practice or* hold himself out as *being able to practice* [~~a~~] physical *therapy* [~~therapist or~~] in any manner *whatsoever whether or not compensation is received or expected* [~~represent himself as a physical therapist in this state~~] unless he *meets the educational requirements of this chapter,* is licensed in accordance with the provisions of this chapter, *he is in good standing with the board and his license is not suspended or revoked.* Provided, however, that nothing contained in this chapter shall prohibit any person licensed in this state *under any other* [~~according to~~] law[~~,~~] from *engaging in* [~~carrying out~~] the [~~therapy or~~] practice for which *such person* [~~he~~] is duly licensed. Provided further that persons regularly employed by the United States shall be exempted from the provisions of this chapter while engaged in such employment.

(2) A licensed physical therapist may hold himself out as a “physical therapist” or “licensed physical therapist” and may use the abbreviations “P.T.” or “L.P.T.” as a part of or immediately following his name, in connection with his profession.

(3) It shall be unlawful for any person, or for any business entity, its employes, agents or representatives to use in connection with his or its name or business activity the words “physical therapy,” “physical therapist,” “physiotherapy,” “physiotherapist,” “registered physical therapist,” the letters “P.T.,” “L.P.T.” or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied in any manner, or to extend or provide physical therapy services or to bill for physical therapy services unless such services are provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter [~~No person who is not the holder of a physical therapist license from the board shall so use the terms “physical therapist” or “licensed physical therapist” or the abbreviation “L.P.T.”, “P.T.” or any other term that may imply that the person is a physical therapist~~].

Section 3. KRS 327.040 is amended to read as follows:

(1) It shall be the duty of the state board of physical therapy to receive applications from persons desiring to become physical therapists and to determine whether said applicants meet the qualifications and standards required by this chapter of all physical therapists. The board shall also be charged with enforcement

of the provisions of this chapter.

(2) The board is hereby constituted a body corporate, with power to sue and be sued, to institute criminal proceedings in the name of the Commonwealth against violators of this chapter, or to institute civil proceedings to enjoin violation thereof, or both. It shall investigate every supposed violation of this chapter coming to its notice and shall take such action as it may deem to be appropriate. It shall be the duty of the attorney general, the commonwealth's attorneys and the county attorneys to assist the board in prosecuting all violations of this chapter.

(3) The board shall meet at least once each quarter at such place in this state as may be selected by the board. Three (3) members of the board shall constitute a quorum for the transaction of business. All meetings shall be held at the call of the chairman or at a call of a quorum of members upon not less than ten (10) days' written notice, unless notice shall be waived. The presence of any member at any such meeting of the board shall constitute a waiver of notice thereof by such member.

(4) The board *or any member thereof* may *issue subpoenas to* [~~administer oaths and~~] compel the attendance of witnesses *and the production of documents, and may administer oaths, take* [~~to give~~] testimony, *hear proof and receive exhibits in evidence, in connection with or at* [~~as to~~] any *investigations or hearings before the board* [~~matters~~] pertaining to its duties. *In case of disobedience to a subpoena, the board may invoke the aid of the Franklin circuit court. Any order or subpoena of such court requiring the attendance or testimony of witnesses or the production of documentary evidence may be enforced and shall be valid anywhere in this state.*

(5) The board shall keep a minute book containing a record of all meetings of the board.

(6) The board shall maintain a register of all persons licensed under this chapter. This register shall show the name of every physical therapist licensed in this state, his current business and residence address and telephone numbers, and the date and number of his license. The board shall be notified by a licensee of a change of name, address or telephone number, within thirty (30) days of the change.

(7) The board's records shall be updated annually.

(8) The board shall publish annually and make available, a current directory of all licensed physical therapists.

(9) The board shall adopt a seal which shall be affixed to every license granted by it.

(10) The board may adopt and enforce reasonable regulations for the effectuation of the purposes of this chapter, which regulations when properly filed with the legislative research commission, shall have the force and effect of law.

(11) The board shall establish by regulation a code of ethical standards and standards of practice.

(12) The board shall have the right to regulate physical therapists' assistants and may promulgate reasonable rules and regulations regarding the certification thereof, limitations of activities thereof, the supervision thereof, and the educational qualifications therefor, provided such rules and regulations are in accordance with KRS chapter 13. The board may establish reasonable fees for the certification, renewal and endorsement of physical therapists' assistants. The fees shall not exceed corresponding fees for physical therapists.

Section 4. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program *in* [~~of~~] physical therapy and be a graduate of an accredited school of physical therapy approved by the board. No school shall be approved *by the board* unless it has been [~~accredited or~~] approved *for* [~~by~~] the *educational preparation of physical therapists by* [~~committee on allied health education and accreditation of~~] the *recognized national accrediting agency for physical therapy educational programs* [~~American Medical Association, or the American Physical Therapy Association~~].

(2) Any person who possesses the aforementioned qualifications and who desires to apply for licensure as a physical therapist in Kentucky shall make written application therefor to the board, on forms to be provided by the board, which shall be accompanied by an application fee determined by the board but not to exceed *two* [~~one~~] hundred *fifty* [~~twenty-five~~] dollars *($250)* [~~($125)~~], no part of which shall be returned. A licensure applicant shall successfully complete a board-approved examination.

(3) If it appears from said application that the applicant possesses the qualifications required by this chapter and has not yet *successfully completed* [~~taken~~] the board-approved examination, such applicant shall be admitted to the next scheduled examination and tested in such subjects as the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at such time and place as the board shall determine.

(5) An applicant who is admitted to the examination *or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board* may be granted a temporary *permit* [~~license~~] which shall be valid until his examination is graded and he is notified by the board of his score.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by regulation, permit applicants to take the examination more than once.

(8) *Beginning January 31, 1985,* all licenses shall be renewed *biennially* [~~annually, without further examination~~], upon payment on or before *March* [~~January~~] 31 of each *uneven numbered* year of a renewal fee to be fixed by the board in an amount not to exceed *one hundred* [~~forty~~] dollars *($100)* [~~($40)~~].

(9) Licenses which are not renewed by *March* [~~January~~] 31 of each *uneven numbered* year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days.

Section 5. KRS 327.060 is amended to read as follows:

The board shall issue a license to:

(1) An individual who holds a valid license from another state, who meets requirements specified in KRS 327.050 and who has no imposed or pending disciplinary actions.

(2) An individual who has been trained in a foreign country, subject to the following requirements:

(a) Graduation from a physical therapy program.

(b) Evaluation of the individual's educational credentials by a credentials evaluation service acceptable to the board.

(c) Approval by the board of the individual's educational credentials.

(d) Successful completion of the examination provided for in KRS 327.050.

(e) Demonstration of proficiency in the English language.

(f) Successful completion of one (1) year of *board approved* supervised practice under a physical therapist licensed under this chapter. This requirement may be satisfied by one (1) year of supervised practice as a licensed physical therapist in a state with license requirements comparable to or more stringent than those of Kentucky.

Section 6. KRS 327.070 is amended to read as follows:

The board, after due notice and hearing may refuse to license any applicant, and may refuse to renew the license of any licensed person, and may suspend or revoke or place on probation the license of any licensed person *and may issue an administrative warning to any licensed person*:

(1) Who indulges in excessive use of alcoholic beverages or who is addicted to the use of narcotic drugs;

(2) Who has engaged in or permitted the performance of substandard patient care by himself or by persons working under his supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;

(3) Who has, in the judgment of the board, engaged in a course of lewd or immoral conduct in connection with the delivery of health care services to patients;

(4) Who has been convicted of a felony or any crime *in the courts of this state or any other state, territory or country* which affects his ability to continue to practice competently and safely on the public. *"Conviction," as used in this subsection, shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere*;

(5) Who has obtained or attempted to obtain a license by fraud or material misrepresentation or who has made any other false statement to the board;

(6) Who engaged in fraud or material deception in the delivery of professional services, including reimbursement, or has advertised services in a false or misleading manner;

(7) Who is guilty, in the judgment of the board, of gross negligence or gross incompetency in his practice of physical therapy;

(8) Who has been declared mentally disabled by a court of competent jurisdiction and has not thereafter had his rights restored;

(9) Who has failed or refused to obey any lawful order or regulation of the board;

(10) Who has promoted for personal gain an unnecessary device, treatment, procedure or service, or who has directed or required a patient to purchase a device, treatment, procedure or service from a facility or business in which he has a financial interest; and

(11) Who has been adjudged unfit to practice due to a physical or mental disability. When physical or mental capacity is at issue in a board proceeding, the board may order the practitioner to submit to a reasonable physical or mental examination. Failure to comply shall be grounds for the summary revocation of the practitioner's license.

Section 7. KRS 327.990 is amended to read as follows:

(1) Each violation of KRS 327.020 shall constitute a misdemeanor and be punished by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by imprisonment for not less than ten (10) days nor more than thirty (30) days, or both, for the first offense. Each subsequent violation thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for not less than thirty (30) days nor more than ninety (90) days or both.

(2) Any person who shall knowingly make a false statement in his application for licensure under this chapter, or in response to any proper inquiry by the board, shall be guilty of a misdemeanor and fined not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(3) The attorney general, commonwealth attorney, county attorney or any member of the board may apply for injunctive relief in any court of competent jurisdiction to enjoin any person or entity from committing an act in violation of this chapter. The injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies in this chapter.

The Committee Substitute to **HB 298** is as follows:

HB 298, AN ACT relating to physical therapy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 327.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Physical therapy" means the use of selected knowledge and skills in planning, organizing and directing programs for the care of individuals whose ability to function is impaired or threatened by disease or injury, encompassing preventive measures, screening, *tests in aid of diagnosis by a licensed doctor of medicine, osteopathy, dentistry or podiatry* and evaluation and invasive or noninvasive procedures with emphasis on the skeletal system, neuromuscular and cardiopulmonary function, as it relates to physical therapy. Physical therapy includes screening or evaluations performed to determine the degree of impairment of relevant aspects such as, but not limited to, nerve and muscle function including subcutaneous bioelectrical potentials, motor development, functional capacity and respiratory or circulatory efficiency. Physical therapy also includes *physical therapy treatment* [~~therapeutic procedures~~] performed upon referral by a licensed doctor of medicine, osteopathy, dentistry or podiatry including, but not limited to, exercises for increasing or restoring strength, endurance, coordination and range of motion, stimuli to facilitate motor activity and learning, instruction in activities of daily living and the use of assistive devices and the application of physical agents to relieve pain or alter physiological status. The use of roentgen rays and radium for diagnostic or therapeutic purposes, the use of electricity for surgical purposes, including cauterization and colonic irrigations are not authorized under the term "physical therapy" as used in this chapter.

(2) "Physical therapist" means a professional person who *has met the educational requirements of this chapter and who is licensed to practice* [~~practices~~] physical therapy *pursuant to this chapter.*

(3) "Board" means the state board of physical therapy established by KRS 327.030.

(4) "Referral" means the *procedure by which a licensed doctor of medicine, osteopathy, dentistry* or *podiatry designates the initiation* [~~designation~~] of physical therapy *treatment* [~~procedures~~] by a licensed *physical therapist* [~~doctor of medicine, osteopathy, dentistry or podiatry~~].

(5) "Temporary *permit"* [~~license"~~] means a *permit* [~~license~~] granted to an individual who *has met* [~~meets~~] all requirements *in Kentucky* for *license application by* examination and has made application for examination but who has not *yet successfully completed* [~~taken~~] the *board approved* examination *in this or another state.*

Section 2. KRS 327.020 is amended to read as follows:

(1) No person shall *practice or* hold himself out as *being able to practice* [~~a~~] physical *therapy* [~~therapist or~~] in any manner *whatsoever* [~~represent himself as a physical therapist in this state~~] unless he *meets the educational requirements of this chapter,* is licensed in accordance with the provisions of this chapter, *he is in good standing with the board and his license is not suspended or revoked.* Provided, however, that nothing contained in this chapter shall prohibit any person licensed in this state *under any other* [~~according to~~] law[~~,~~] from *engaging in* [~~carrying out~~] the [~~therapy or~~] practice for which *such person* [~~he~~] is duly licensed. *This Act does not preclude certified occupational therapists, respiratory technicians or respiratory therapists from practicing as defined in the United States department of health, education and welfare, public health service, health resources administration, bureau of health manpower, DHEW publication No. (HRA) 80-28, "A Report On Allied Health Personnel."* Provided further that persons regularly employed by the United States shall be exempted from the provisions of this chapter while engaged in such employment.

(2) A licensed physical therapist may hold himself out as a "physical therapist" or "licensed physical therapist" and may use the abbreviations "P.T." or "L.P.T." as a part of or immediately following his name, in connection with his profession.

(3) It shall be unlawful for any person, or for any business entity, its employes, agents or representatives to use in connection with his or its name or business activity the words "physical therapy," "physical therapist," "physiotherapy," "physiotherapist," "registered physical therapist," the letters "P.T.," "L.P.T." or any other words, letters, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied or to bill for physical therapy unless such physical therapy is provided by or under the supervision of a physical therapist licensed and practicing in accordance with this chapter [~~No person who is not the holder of a physical therapist license from the board shall so use the terms "physical therapist" or "licensed physical therapist" or the abbreviation "L.P.T.", "P.T." or any other term that may imply that the person is a physical therapist~~].

Section 3. KRS 327.040 is amended to read as follows:

(1) It shall be the duty of the state board of physical therapy to receive applications from persons desiring to become physical therapists and to determine whether said applicants meet the qualifications and standards required by this chapter of all physical therapists. The board shall also be charged with enforcement of the provisions of this chapter.

(2) The board is hereby constituted a body corporate, with power to sue and be sued, to institute criminal proceedings in the name of the Commonwealth against violators of this chapter, or to institute civil proceedings to enjoin violation thereof, or both. It shall investigate every supposed violation of this chapter coming to its notice and shall take such action as it may deem to be appropriate. It shall be the duty of the attorney general, the commonwealth's attorneys and the county attorneys to assist the board in prosecuting all violations of this chapter.

(3) The board shall meet at least once each quarter at such place in this state as may be selected by the board. Three (3) members of the board shall constitute a quorum for the transaction of business. All meetings shall be held at the call of the chairman or at a call of a quorum of members upon not less than ten (10) days' written notice, unless notice shall be waived. The presence of any member at any such meeting of the board shall constitute a waiver of notice thereof by such member.

(4) *Upon majority vote by the board,* the board *or any member thereof* may *issue subpoenas to* [~~administer oaths and~~] compel the attendance of witnesses *and the production of documents, and may administer oaths, take* [~~to give~~] testimony, *hear proof and receive exhibits in evidence, in connection with or at* [~~as to~~] any *investigations or hearings before the board* [~~matters~~] pertaining to its duties. *In case of disobedience to a subpoena, the board may invoke the aid of the Franklin circuit court. Any order or subpoena of such court requiring the attendance or testimony of witnesses or the production of documentary evidence may be enforced and shall be valid anywhere in this state.*

(5) The board shall keep a minute book containing a record of all meetings of the board.

(6) The board shall maintain a register of all persons licensed under this chapter. This register shall show the name of every physical therapist licensed in this state, his current business and residence address and telephone numbers, and the date and number of his license. The board shall be notified by a licensee of a change of name, address or telephone number, within thirty (30) days of the change.

(7) The board's records shall be updated annually.

(8) The board shall publish annually and make available, a current directory of all licensed physical therapists.

(9) The board shall adopt a seal which shall be affixed to every license granted by it.

(10) The board may adopt and enforce reasonable regulations for the effectuation of the purposes of this chapter, which regulations when properly filed with the legislative research commission, shall have the force and effect of law.

(11) The board shall establish by regulation a code of ethical standards and standards of practice.

(12) The board shall have the right to regulate physical therapists' assistants and may promulgate reasonable rules and regulations regarding the certification thereof, limitations of activities thereof, the supervision thereof, and the educational qualifications therefor, provided such rules and regulations are in accordance with KRS chapter 13. The board may establish reasonable fees for the certification, renewal and endorsement of physical therapists' assistants. The fees shall not exceed corresponding fees for physical therapists.

Section 4. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program *in* [~~of~~] physical therapy and be a graduate of an accredited school of physical therapy approved by the board. No school shall be approved *by the board* unless it has been [~~accredited or~~] approved *for* [~~by~~] the *educational preparation of physical therapists by* [~~committee on allied health education and accreditation of~~] the *recognized national accrediting agency for physical therapy educational programs* [~~American Medical Association, or the American Physical Therapy Association~~].

(2) Any person who possesses the aforementioned qualifications and who desires to apply for

licensure as a physical therapist in Kentucky shall make written application therefor to the board, on forms to be provided by the board, which shall be accompanied by an application fee determined by the board but not to exceed *two* [~~one~~] hundred *fifty* [~~twenty-five~~] dollars *($250)* [~~($125)~~], no part of which shall be returned. A licensure applicant shall successfully complete a board-approved examination.

(3) If it appears from said application that the applicant possesses the qualifications required by this chapter and has not yet *successfully completed* [~~taken~~] the board-approved examination, such applicant shall be admitted to the next scheduled examination and tested in such subjects as the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at such time and place as the board shall determine.

(5) An applicant who is admitted to the examination *or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board* may be granted a temporary *permit* [~~license~~] which shall be valid until his examination is graded and he is notified by the board of his score.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by regulation, permit applicants to take the examination more than once.

(8) *Beginning January 31, 1985,* all licenses shall be renewed *biennially* [~~annually, without further examination~~], upon payment on or before *March* [~~January~~] 31 of each *uneven numbered* year of a renewal fee to be fixed by the board in an amount not to exceed *one hundred* [~~forty~~] dollars *($100)* [~~($40)~~].

(9) Licenses which are not renewed by *March* [~~January~~] 31 of each *uneven numbered* year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days.

Section 5. KRS 327.060 is amended to read as follows:

The board shall issue a license to:

(1) An individual who holds a valid license from another state, who meets requirements specified in KRS 327.050 and who has no imposed or pending disciplinary actions.

(2) An individual who has been trained in a foreign country, subject to the following requirements:

(a) Graduation from a physical therapy program.

(b) Evaluation of the individual's educational credentials by a credentials evaluation service acceptable to the board.

(c) Approval by the board of the individual's educational credentials.

(d) Successful completion of the examination provided for in KRS 327.050.

(e) Demonstration of proficiency in the English language.

(f) Successful completion of one (1) year of *board approved* supervised practice under a physical therapist licensed under this chapter. This requirement may be satisfied by one (1) year of supervised practice as a licensed physical therapist in a state with license requirements comparable to or more stringent than those of Kentucky.

Section 6. KRS 327.070 is amended to read as follows:

The board, after due notice and hearing may refuse to license any applicant, and may refuse to renew the license of any licensed person, and may suspend or revoke or place on probation the license of any licensed person *and may issue an administrative warning to any licensed person*:

(1) Who indulges in excessive use of alcoholic beverages or who is addicted to the use of narcotic drugs;

(2) Who has engaged in or permitted the performance of substandard patient care by himself or by persons working under his supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;

(3) Who has, in the judgment of the board, engaged in a course of lewd or immoral conduct in connection with the delivery of health care services to patients;

(4) Who has been convicted of a felony or any crime *in the courts of this state or any other state, territory or country* which affects his ability to continue to practice competently and safely on the public. *"Conviction," as used in this subsection, shall include a finding or verdict of guilt, an admission of guilt or a plea of nolo contendere*;

(5) Who has obtained or attempted to obtain a license by fraud or material misrepresentation or who has made any other false statement to the board;

(6) Who engaged in fraud or material deception in the delivery of professional services, including reimbursement, or has advertised services in a false or misleading manner;

(7) Who is guilty, in the judgment of the board, of gross negligence or gross incompetency in his practice of physical therapy;

(8) Who has been declared mentally disabled by a court of competent jurisdiction and has not thereafter had his rights restored;

(9) Who has failed or refused to obey any lawful order or regulation of the board;

(10) Who has promoted for personal gain an unnecessary device, treatment, procedure or service, or who has directed or required a patient to purchase a device, treatment, procedure or service from a facility or business in which he has a financial interest; and

(11) Who has been adjudged unfit to practice due to a physical or mental disability. When physical or mental capacity is at issue in a board proceeding, the board may order the practitioner to submit to a reasonable physical or mental examination. Failure to comply shall be grounds for the summary revocation of the practitioner's license.

Section 7. KRS 327.990 is amended to read as follows:

(1) Each violation of KRS 327.020 shall constitute a misdemeanor and be punished by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by imprisonment for not less than ten (10) days nor more than thirty (30) days, or both, for the first offense. Each subsequent violation thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for not less than thirty (30) days nor more than ninety (90) days or both.

(2) Any person who shall knowingly make a false statement in his application for licensure under this chapter, or in response to any proper inquiry by the board, shall be guilty of a misdemeanor and fined not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(3) The attorney general, commonwealth attorney, county attorney or, upon majority vote of the board, any member thereof may apply for injunctive relief in any court of competent jurisdiction to enjoin any person or entity from committing an act in violation of this chapter. The injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies in this chapter.

The Committee on State Government reported **HB 427, HB 451, HB 488, HB 575, HB 579, HB 581, HR 24, HCR 30, SB 79, SJR 1,** and **SCR 6** with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 427, AN ACT relating to the Kentucky Heritage Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.381 is amended to read as follows:

(1) The heritage council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.

(2) The duties and functions of the council shall be to:

(a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;[~~.~~]

(b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky department of parks and historical society in matters of common concern;[~~.~~]

(c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private*; and*[~~.~~]

(d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

(3) The council may:

(a) Accept grants or other funds or property from any available source, public or private;[~~.~~]

(b) Employ, with the approval of the governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS chapters 44 and 45;[~~.~~]

(c) Enter into such contractual relationships as may be necessary;[~~.~~]

(d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45.360, and hold the same in the name of the Commonwealth for the use and benefit of the council;[~~.~~]

(e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private*; and*[~~.~~]

(f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.

(4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.

(5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.

(6) The council shall receive applications, interview and recommend to the governor three (3) persons as nominees for appointment as the director of the heritage division, education and humanities cabinet. The director of the heritage division shall be the state historic preservation officer.

(7) The responsibilities of the state historic preservation officer shall include:

(a) Development for the state historic preservation program;

(b) Direction of a comprehensive statewide survey of historic properties;

(c) Nomination of historic properties to the national register of historic places;

(d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;

(e) Cooperation in the integration of historic preservation planning with all levels of planning;

(f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;

(g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the national register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

(h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;

(i) Liaison with organizations of professional archeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;

(j) Development and operation of a program of public information and education concerning the preservation program;

(k) Administration of the grants program within the state; and

(l) Preparation and maintenance of a comprehensive statewide historic preservation plan.

HB 451, AN ACT relating to service requirements for public safety personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the bureau of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 16.541;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services

performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the bureau of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system, [~~or~~] a member of the county employes retirement system *or a member of the Kentucky employes retirement system* covered by this section with *twenty (20)* [~~twenty-five (25)~~] or more years of service credit at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday[~~. Members of the Kentucky employes retirement system covered by this section who have completed thirty (30) years of service, at least fifteen (15) of which are current, may declare their "normal retirement date" to be some date prior to their fifty-fifth birthday~~];

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal Social Security Act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has *fifteen (15)* [~~twenty (20)~~] years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535; and

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS Chapter 18 as provisional full-time, probationary full-time and permanent full-time.

Section 2. KRS 16.577 is amended to read as follows:

[~~(1)~~] Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

[~~(2) Members of the county employes retirement system covered by this section who have completed twenty-five (25) years of service shall not have their allowance for early retirement reduced to reflect earlier commencement of benefits.~~]

HB 488, AN ACT relating to elevator inspectors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.420 is amended to read as follows:

(1) The department shall administer all aspects of the state elevator inspection program.

(2) The program shall be directed by a person with at least five (5) years' experience in the *inspection or* construction, installation, maintenance, and repair of elevators and their appurtenances.

(3) The commissioner of housing, buildings and construction may appoint and hire from the holders of certificates of competency no more than five (5) general inspectors of elevators.

HB 575, AN ACT relating to reorganization and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.027 is amended to read as follows:

When the governor *or another elected official* effects a temporary reorganization under KRS 12.028, he shall do so by executive order filed with the legislative research commission and the secretary of state, and he shall clearly designate the order as one relating to reorganization. The secretary of state shall keep a copy of all executive orders relating to organization.

Section 2. KRS 12.028 is amended to read as follows:

(1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the governor *and other elected state executive officers* may propose to the general assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities and records from one (1) organizational unit or administrative body to another.

(2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency and improved administration as the needs of government dictate, the governor *and other elected state executive officers* may, between sessions of the general assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first *reviewed* [~~approved by the legislative research commission after review~~] by the interim joint legislative committee with appropriate jurisdiction. [~~Unless required by federal law,~~] The governor may not effect a temporary reorganization plan under this subsection that would *alter or abolish an organizational unit or administrative body headed by another elected state executive officer unless requested in writing by that officer. An elected state executive officer other than the governor may only reorganize an organizational unit or administrative body that he heads* [~~contravene:~~

~~(a) A constitutional or statutory provision relating to any constitutional officer or to an organizational unit headed by a constitutional officer; or~~

~~(b) A constitutional or statutory provision relating to an administrative body or to an organizational unit headed by an administrative body; or~~

~~(c) A constitutional provision relating to an organizational unit~~].

(3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the legislative research commission. The plan shall include:

(a) An explanation of each proposed change, including the need for the change;

(b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the *promulgating officer* [~~governor~~] expects will result from the reorganization;

(c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the *promulgating officer* [~~governor~~] expects will be realized as a result of the reorganization; and

(d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employes that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

(4) When a proposed reorganization plan is submitted for *review* [~~approval~~] under subsection (2) of

this section the presiding co-chairman of the legislative research commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ten (10) days after the director of the legislative research commission receives the proposal. [~~Prior to the legislative research commission's approving a temporary reorganization plan,~~] The interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the legislative research commission. The committee shall review and report on the plan [~~and the legislative research commission shall act upon the plan~~] within sixty (60) days after it is filed with the legislative research commission. [~~If the legislative research commission finds that increased economy or efficiency or improved administration can be expected from implementation of the plan, it shall approve the plan; otherwise, it shall not approve the plan.~~] If the *committee* [~~commission~~] does not *report* [~~act~~] on a proposed plan within the time specified in this subsection, the plan shall be considered *reviewed* [~~approved~~] by the *interim joint legislative committee with appropriate jurisdiction* [~~legislative research commission~~].

(5) A temporary reorganization effected [~~by the governor~~] under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the general assembly unless otherwise specified by the general assembly. *The governor or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the general assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the general assembly in a separate bill.* If the general assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the general assembly fails to enact a temporary reorganization plan, the governor *and other elected state executive officers* shall not effect the plan prior to the next succeeding session of the general assembly.

(6) The legislative research commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency or administration have been realized as a result of the reorganization and shall report its findings to the general assembly.

(7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

Section 3. Whereas, the Kentucky Supreme Court has declared void KRS 12.028 to the extent that it requires Legislative Research Commission approval of interim executive reorganization plans, and whereas the General Assembly therefore finds it necessary to clarify the interim reorganization process prior to the end of the 1984 Regular Session, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HB 579, AN ACT relating to the Kentucky retirement systems, as referenced in KRS 61.645.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.555 is amended to read as follows:

(1) [~~Prior to July 1, 1976,~~] Any employe entering the armed forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the armed forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the armed forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the armed forces, not to exceed six (6) years.

(3) Any national guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employe eligible for retirement as prescribed in KRS 61.559 or any employe upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been

credited with such service under subsections (1) to (3) of this section provided he pays thirty-five percent (35%) of the cost of such service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in *subsection (4) of* KRS 61.560[~~(4)~~], and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for such purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account the board shall not accept employe payments until such time as funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employe contribution ratio if such member was taken prisoner by a hostile power at any time during active military service.

(6) *Upon retirement, a member (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with such service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.*

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future. Provided, that nothing in this section shall prohibit such purchase of credit where the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or where the military pension is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled.

HB 581, AN ACT relating to the Kentucky retirement systems, as referenced in KRS 61.645.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the bureau of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 16.541;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the bureau of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system or a member of the county employes retirement system covered by this section with twenty-five (25) or more years of service credit at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday. Members of the Kentucky employes retirement system covered by this section who have completed thirty (30) years of service, at least fifteen (15) of which are current, may declare their "normal retirement date" to be some date prior to their fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal Social Security Act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is [~~not~~] less than *fifty-five (55)* [~~fifty (50)~~] years of age and has twenty (20) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535; and

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS Chapter 18 as provisional full-time, probationary full-time and permanent full-time.

Section 2. 16.577 is amended to read as follows:

[~~(1)~~] Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

[~~(2) Members of the county employes retirement system covered by this section who have completed twenty-five (25) years of service shall not have their allowance for early retirement reduced to reflect earlier commencement of benefits.~~]

Section 3. KRS 61.625 is amended to read as follows:

If a member's employment has been terminated [~~for a period of thirty (30) consecutive days~~] or if the member *is employed by a participating employer in an employment status that does not require the member to participate in the system, the member* [~~has remained in a layoff, seasonal, emergency, temporary or part-time position for a period of thirty (30) consecutive days, he~~], if living, if not, his designated beneficiary, shall *have the right to request a refund* [~~be paid, on demand, but not later than thirty (30) days thereafter, provided said member is not reemployed in the same system at the time of such demand, the amount~~] of his accumulated contributions, including the amount of any employe contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received. *A member who has been remployed as a contributing member within the same system from which the refund has been requested shall not be eligible for a refund.* Payments made under this section shall be in lieu of any other benefits due for such period of service under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 and 78.510 to 78.852, unless such period of service is regained as provided under KRS 61.552. Payments of picked up employe contributions shall be subject to state and federal tax as appropriate.

Section 4. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems

composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system;

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) *To purchase fiduciary liability insurance;*

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; provided, however, that the board is not authorized to construct a building; and

(g)[~~(f)~~] The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section.

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office.

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals.

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members.

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of

a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.510 to 61.705 and 16.510 to 16.652 and 78.510 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705 and 16.510 to 16.652 and 78.510 to 78.852. *Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.510 to 61.705 and 16.510 to 16.652 and 78.510 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative rules and regulations that are in conformance with federal statute and regulation.*

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two per cent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.510 to 61.705 and 78.510 to 78.852, may appeal the decision of the board to the Franklin Circuit Court *within ninety (90) days of the board action.*

Section 5. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 61.510 to 61.692 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders *and may acquire real estate without obtaining the approval of the district court as set forth in KRS 386.020(1)(h).* Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) In accordance with the laws, regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to 61.692 shall be registered in the name "Kentucky Employes Retirement System of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 6. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852 a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service, may elect to receive an annual retirement allowance payable monthly or less frequently as determined by the board which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the state police retirement system, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) *The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or*

(d) The member has thirty (30) or more years of service at least fifteen (15) of which are current service; or

(e)[~~(d)~~] The member has attained age fifty-five (55) and was an employe of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

Section 7. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) *Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request* each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705 or 78.510 to 78.852 or 16.510 to 16.652.

Section 8. KRS 61.600 is amended to read as follows:

An employe with sixty (60) months of service, twelve (12) months of which must be current service, may retire at any time before his normal retirement date on account of disability upon written notification to the board. *Application for disability benefits must be made within twelve (12) months after termination of employment.* Upon the examination by [~~a~~] licensed [~~physician or~~] physicians it must be determined that the employe, since his last day of paid employment, has been mentally or physically incapacitated to engage in any occupation for remuneration or profit and that such disability did not pre-exist at the time of initial employment or re-employment (except in case where a disabled recipient has returned to work on a trial basis) and is a result of bodily injury, mental illness or disease and that such incapacity is deemed to be permanent.

Section 9. KRS 61.607 is amended to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652 or 61.510 to 61.692 or 78.510 to 78.852 a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employes' account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employe's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

(a) Add the monthly benefit payable to the disabled employe from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from social security, even though these payments may not begin for a period of time as required for qualification under the federal social security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workmen's compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workmen's compensation, to arrive at a projected combined monthly benefit.

(b) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employe's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final [~~monthly~~] rate of pay or his final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his disability retirement allowance from the retirement system using the disabled employe's actual total service.

(c) The board is hereby authorized to pay estimated benefits to a disabled employe, upon qualification for disability retirement, based on an estimate of his social security and workmen's compensation benefits until such amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

(d) Any increase in social security benefits or workmen's compensation benefits which becomes law (regardless of their effective date) subsequent to the disabled employe's effective retirement date shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employe's effective retirement date.

(e) Any disabled recipient whose potential payments from the system where reduced as provided for in this section shall advise the board if his payments under the federal social security act or workmen's compensation act cease at any time subsequent to his effective retirement date. Upon investigation, should the board determine that such disabled recipient continues to be eligible for disability benefits, the board may increase his retirement allowance by adding to his payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (b) of this section.

Section 10. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon such terms and conditions as it may prescribe, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705 and 16.505 to 16.652 and 78.510 to 78.852 or by the

board, and to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to such person under KRS 61.510 to 61.705 and 16.505 to 16.652 and 78.510 to 78.852, and shall report in writing to the board his conclusions and recommendations upon all matters referred to him.

(2) (a) Each employe requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employe's physical and mental condition.

(b) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employe's physicians with the request that the documents be filed with the board.

(c) The cost of a medical examination shall be paid by the employe. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office.

(d) The board shall select two (2) medical examiners who shall evaluate the medical evidence submitted by the employe's physician. The examiners shall recommend that disability retirement be approved, or that disability retirement be denied. A third medical examiner shall review the medical evidence when necessary to provide a consensus if the recommendations of the first two (2) medical examiners do not agree.

(e) If the medical examiners recommend that the employe be approved for disability retirement, the general manager shall proceed to make retirement payments in accordance with the retirement plan selected by the employe.

(f) If the medical examiners recommend that the employe be denied disability retirement, the general manager shall notify the board and the employe of this recommendation. The employe shall have the opportunity of furnishing additional medical evidence of total and permanent disability and any such additional evidence shall be submitted to the medical examiners. *The additional medical information shall be submitted within one hundred and twenty (120) days after notification by the general manager. If additional information is not submitted within one hundred and twenty (120) days, the disability request will be voided.*

(g) *If the medical examiners recommend that the employe be denied disability retirement, the employe shall have one hundred and twenty (120) days in which to file an appeal of the medical examiners decision in the Franklin Circuit Court.*

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(3) Notwithstanding the foregoing provisions of this section the board is hereby authorized to pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners.

Section 11. KRS 61.691 is amended to read as follows:

(1) Effective *January 1, 1985* [~~July 1, 1982~~], a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.510 to 61.705 and 78.510 to 78.852 shall have his retirement allowance increased *by one dollar ($1) per month for each year of service accumulated prior to retirement. The increase is applicable only to recipients who began receiving benefits prior to August 1, 1984.* [~~based upon the number of months elapsed since the effective retirement date as follows:~~

~~Months Retired~~	~~Percent Increase~~
~~1-12~~	~~1%~~
~~13-24~~	~~2%~~
~~25-36~~	~~3%~~
~~37-48~~	~~4%~~
~~49-60~~	~~5%~~
~~61-72~~	~~6 1/4%~~
~~73-84~~	~~7 1/2%~~
~~85-96~~	~~8 3/4%~~
~~97-108~~	~~10%~~
~~109-120~~	~~11 1/2%~~
~~121-132~~	~~13%~~
~~133-144~~	~~14 1/2%~~
~~145 or more~~	~~15%~~]

(2) [~~Effective July 1, 1983, a recipient of a retirement allowance under KRS 16.510 to 16.652 or 61.510 to 61.705 or 78.510 to 78.852 shall have his retirement allowance increased based upon the number of months elapsed since the effective retirement date as follows:~~

~~Months Retired~~	~~Percent Increase~~
~~1-12~~	~~1/2%~~
~~13-24~~	~~1%~~
~~25-36~~	~~1 1/2%~~
~~37-48~~	~~2%~~
~~49-60~~	~~2 1/2%~~
~~61-72~~	~~3 1/4%~~

~~73-84~~	~~4%~~
~~85-96~~	~~4 3/4%~~
~~97-108~~	~~5 1/2%~~
~~109-120~~	~~6 1/2%~~
~~121-132~~	~~7 1/2%~~
~~133-144~~	~~8 1/2%~~
~~145 or more~~	~~9 1/2%~~

~~(3)~~] A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.

SECTION 12. A NEW SECTION OF KRS CHAPTER 78 IS CREATED TO READ AS FOLLOWS:

(1) Any agency participating in the county employes retirement system which has formally adopted a sick leave program that is universally administered to its employes may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employe.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the board on forms prescribed by the board. The certification shall provide for equal treatment of all employes.

(3) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employe's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852.

(4) The board shall compute the cost to the retirement system of the sick leave credit of each retiring employe and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

HR 24, A RESOLUTION relating to the Kentucky Public Employes Deferred Compensation System and directing an investigation of the management of funds deducted for investment thereby.

WHEREAS, a current and accurate accounting of funds deducted from individual paychecks for investment by the Kentucky Public Employes Deferred Compensation System is often unavailable to the plan's participants; and

WHEREAS, delays in the processing of payroll deductions by the Treasury Department, the administrators of the Deferred Compensation Plan, or both continue to occur despite repeated interim legislative inquiries; and

WHEREAS, the Deferred Compensation program administrators appear to have limited regard for the fiduciary duties of a trust plan which handles the hard-earned money of many public employes;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Chairman of the House Committee on State Government shall be and is hereby directed to appoint a Subcommittee of said Committee to investigate the processing, investment and reporting of funds contributed by payroll deduction to the Kentucky Public Employes Deferred Compensation System.

Section 2. That the Subcommittee appointed pursuant to Section 1 of this Resolution shall consult with and seek the assistance of the State Auditor of Public Accounts and the Attorney General.

Section 3. That the findings of the Subcommittee appointed pursuant to Section 1 of this Act shall be published in a report to the House of Representatives.

HCR 30, A CONCURRENT RESOLUTION directing the Legislative Program Review and Investigations Committee to study the Cabinet for Human Resources' reimbursement system for services rendered to children by private, non-profit child-caring agencies.

WHEREAS, the private, non-profit child care sector in Kentucky provides primary residential care and treatment facilities for the Commonwealth's dependent, neglected, abused and status-offense children; and

WHEREAS, the predominant number of children served by private non-profit child-caring agencies are committed to the Cabinet for Human Resources and the Cabinet is therefore responsible for the cost of their care; and

WHEREAS, the system of reimbursement established by the Cabinet for Human Resources reimburses only a small portion of agency services rendered even when such services are mandated by state licensure regulations; and

WHEREAS, it has been determined there is no realistic parity between Kentucky's Cabinet for Human Resources aforementioned reimbursement system and those of the surrounding states or southeastern states; and

WHEREAS, such reimbursement system should serve as an incentive and an enabling process for the development of quality child care programs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Program Review and Investigations Committee is directed to study the Cabinet for Human Resources' reimbursement system for services rendered to dependent, neglected, abused, and status-offense children by private, non-profit child-caring agencies.

Section 2. The study should include an analysis of costs of services rendered based on level of care, a comparative analysis of costs of services rendered by state operated and by private, non-profit child-caring programs, and a comparative study of similar reimbursement systems in other southeastern states.

Section 3. The Legislative Program Review and Investigations Committee shall report its findings and recommendations as to a fair and appropriate system of reimbursement to the Kentucky General Assembly no later than January 1, 1985.

Section 4. Staff services to be utilized in completing this study are estimated to be $10,000. These services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

SB 79, AN ACT proposing to amend the Constitution of Kentucky relating to sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 99 of the Constitution of Kentucky be amended to read as follows:

There shall be elected in [~~eighteen hundred and ninety-four in~~] each county a Judge of the County Court, a County Court Clerk, a County Attorney, Sheriff, Jailer, Coroner, Surveyor and Assessor, and in each Justice's District one Justice of the Peace and one Constable, who shall enter upon the discharge of the duties of their offices on the first Monday in January after their election, and [~~continue in office three years, and until the election and qualification of their successors; and in eighteen hundred and ninety-seven, and every four years thereafter, there shall be an election in each county of the officers mentioned,~~] who shall hold their offices four years [~~(from the first Monday in January after their election), and~~] until the election and qualification of their successors. [~~The first election of Sheriffs under this Constitution shall be held in eighteen hundred and ninety-two, and the Sheriffs then elected shall hold their offices two years, and until the election and qualification of their successors. The Sheriffs now in office for their first term shall be eligible to re-election in eighteen hundred and ninety-two, and those elected in eighteen hundred and ninety-two for the first term shall be eligible to re-election in eighteen hundred and ninety-four, but thereafter no Sheriff shall be eligible to re-election or to act as deputy for the succeeding term.~~]

Section 2. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided in Sections 256 and 257 of the Constitution of Kentucky and in KRS 118.415.

SJR 1, A JOINT RESOLUTION declaring August 2nd as "Handicapped Day" throughout the Commonwealth.

WHEREAS, many of our fellow Kentuckians are disabled or physically or mentally handicapped; and

WHEREAS, our society far too often fails to recognize and appreciate the talents and contributions of disabled and handicapped persons; and

WHEREAS, this honorable body is proud to commend each and every disabled and handicapped person in the state as an exemplary representative of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That August 2nd of each year is named and declared to be "Handicapped Day" throughout the Commonwealth.

SCR 6, A CONCURRENT RESOLUTION establishing a commission on financing health care for the medically indigent.

WHEREAS, it is widely acknowledged that rising health care costs, and high rates of unemployment and poverty have resulted in at least 15% of all Kentuckians being uninsured or underinsured for health expenses; and

WHEREAS, the lack of adequate health insurance coverage often results in a lack of access to quality health care services; and

WHEREAS, recent changes in Medicaid and Medicare payment policies have resulted in a curtailment of services, higher levels of unreimbursed care by health providers, and certain disincentives to treating those without financial resources; and

WHEREAS, eligibility restrictions under the Kentucky Medical Assistance Program disqualify many persons who are without adequate personal resources to pay for needed care; and

WHEREAS, the Commonwealth of Kentucky has undertaken to subsidize health care for the medically indigent through appropriations to state university teaching hospitals, specialized perinatal programs in regional hospitals, public health programs, the Kentucky Medical Assistance Program and various other programs; and

WHEREAS, the Congress of the United States is actively considering legislation to provide health insurance coverage to the unemployed; and

WHEREAS, study of the financing of health care for the medically indigent will enable members of the General Assembly to assess the extent and seriousness of the problem, and to determine whether previous appropriations are being expended in a cost-effective manner;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of the financing of health care for the medically indigent.

Section 2. A Commission on Financing Health Care for the Medically Indigent shall be appointed by the Legislative Research Commission to guide and assist in the study. The Commission shall be comprised of:

(1) One (1) Senator who is a member of the Health and Welfare Committee;
(2) One (1) Representative who is a member of the Health and Welfare Committee;
(3) One (1) person nominated by the Kentucky Legal Services Corporation;
(4) One (1) representative of the Cabinet for Human Resources;
(5) One (1) person nominated by the Council on Higher Education;
(6) One (1) person nominated by the Kentucky Primary Care Association;
(7) One (1) person nominated by the Kentucky Medical Association; and
(8) One (1) person nominated by the Kentucky Hospital Association.

Section 3. The Commission on Financing Health Care for the Medically Indigent shall analyze data on the number and place of residence of persons who are uninsured or underinsured for health care expenses, on eligibility restrictions under the Kentucky Medical Assistance Program, on the amount of uncompensated care being provided by hospitals, physicians and other providers, and develop a current service listing on programs and services currently available for care of medically indigent persons. The Commission shall develop a report to the Legislative Research Commission on financing health care for the medically indigent and make recommendations on the optimal use and distribution of state funds for this purpose, and on other steps the General Assembly might take to insure that reasonable levels of medical care are available to all the citizens of the Commonwealth, regardless of their ability to pay.

Section 4. Commission members not otherwise compensated or reimbursed for their time and expenses shall be reimbursed for their necessary and reasonable expenses in accordance with state travel policies and procedures.

Section 5. The Commission on Financing Health Care for the Medically Indigent shall submit its report to the Interim Joint Committee on Health and Welfare for review no later than August 1, 1985 prior to presenting it to the Legislative Research Commission no later than September 15, 1985.

Section 6. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Calendar

HB 284, HB 111, HB 128, HB 323, HB 366, HB 508, HB 519, HB 417, HB 418, and **HB 483** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 318 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 318** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 318 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 318** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 25, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moore moved the adoption of the Committee Substitute to **HB 25**. Agreed.

Representative Moore moved that **HB 25**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 84-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Williams, Worthington, Yates. Nays 11-Allen, Burnette, Dawahare, Head, Layman, Lefevers, McNutt, Patrick, Rapier, Thomas, Todd.

HB 25, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 25**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 470 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved that **HB 470** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 470 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 470** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 530 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 530** be passed.

On the roll call the vote was yeas 97-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Cowan.

HB 530 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 530** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 110 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomason moved that **SB 110** be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 110 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 110** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 400, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Amendment No. 1 to **HB 400**. Agreed.

Representative Pearman moved that **HB 400,** as amended, be passed.

On the roll call the vote was yeas 81-Allen, Arnold, Bendl, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Thomas, Thomason, Todd, Turner, White, Worthington, Yates. Nays 16-Barrows, Bennett, Blevins, Dawahare, Deskins, T. Jones, Little, Maggard, McNutt, Moore, Noe, Perkins, F. Smith, Stumbo, Van Horn, Williams.

HB 400, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 400,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 51** had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:37 p.m.)

Orders of the Day (Continued)

HB 435 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 435** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 1-White.

HB 435 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 435** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 642, by Representatives Lundegan and Arnold: AN ACT relating to safety and inspections of amusement rides and attractions.

HB 643, by Representative Pearman: AN ACT relating to absentee voting.

HB 644, by Representative Johnson: AN ACT relating to cable television programming decency.

HB 645, by Representative Blevins, Perkins, Heleringer, Bendl, Williams, and Cowan: AN ACT relating to the treatment and rehabilitation of alcoholics. and persons intoxicated by alcohol and declaring an emergency.

HB 646, by Representative Cyrus: AN ACT relating to real property.

HB 647, by Representative Priddy, Seum, Bennett, L. Clark, P. Clark, Yates, Lile, Dunn, and Bronger: AN ACT relating to waste disposal.

HB 648, by Representative Gray: AN ACT relating to workers' compensation.

HB 649, by Representative Gray: AN ACT relating to workers' compensation.

HB 650, by Representatives Dunn and Bennett: AN ACT relating to candidacy.

HB 651, by Representatives Dunn and Bennett: AN ACT relating to municipal roads.

HB 652, by Representative Noe: AN ACT relating to settlement of estates.

HB 653, by Representatives Bruce, White, Craddock, and Morris: AN ACT relating to credit life and health insurance.

HB 654, by Representatives Blevins, Freibert, and L. Clark: AN ACT relating to pupil personnel.

HJR 63, by Representative Morris: A JOINT RESOLUTION directing the formation of a special committee to study the Commonwealth's juvenile detention and placement system and to make recommendations for legislative action.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 564, HB 563, HB 548, HB 592, HB 567.**

Business Organizations and Professions: **HB 129, HB 179.**

Report of Committees

The Committee on Judiciary-Civil reported **SB 92** with expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 92, AN ACT relating to descent and distribution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.030 is amended to read as follows:

(1) Except as otherwise provided in this chapter, where any person dies intestate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and

debts, shall pass and be distributed among the same persons, and in the proportions, to whom and in which real estate is directed to descend, except as follows:

(a) The personal estate of an infant shall be distributed as if he had died after full age.

(b) An alien may be distributee as though he were a citizen.

(c) Personal property or money on hand or in bank to the amount of seven thousand five hundred dollars ($7,500) shall be exempt from distribution and sale and shall be set apart by the district court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the children surviving.

(2) *When any person dies testate as to his personal estate, or any part thereof, the surplus, after payment of funeral expenses, charges of administration and debts, shall be distributed as recited in his will, except that personal property or money on hand or in a bank to the amount of seven thousand five hundred dollars ($7,500) shall be exempt from distribution and sale and shall be set apart by the district court having jurisdiction over the estate on application to the surviving spouse, or, if there is no surviving spouse, to the children surviving.*

(3) The surviving spouse of any deceased person may, at any time before the property or money is set apart by the court, procure on petition from the judge of the district court having jurisdiction over administration of his estate, an order authorizing him to withdraw from any bank or other depository not exceeding one thousand dollars ($1,000) belonging to the estate of the deceased. Upon presentation of the order, the bank or depository shall permit him to withdraw the sum and shall lodge the order, endorsing thereon the amount withdrawn, with the circuit clerk and he shall retain it in his files to be considered in connection with further proceedings in the estate and the withdrawal shall be treated as a charge against the property of the estate exempt from distribution.

(4)[~~(3)~~] In the application for the setting apart of property or money under this section the surviving spouse, or, if there is no surviving spouse, the children may make their selection out of the personal property of the estate to the extent that the value of the property selected does not exceed the amount of seven thousand five hundred dollars ($7,500).

Motions, Petitions and Communications

The following meetings were announced:

Committee on Rules: On adjournment, State Reception Room.

Committee Chairmen: Thirty minutes after adjournment, Room 107.

Representative Gray moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Gray moved that a call of the roll be taken to show co-sponsors of **HR 54**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 54:** Bendl, Brinkley, Brown, Bruce, Caldwell, P. Clark, Clarke, Cowan, Craddock, Dawahare, Endicott, Foster, Hines, Kidd, Lefevers, O'Brien, Priddy, Reinhardt, B. Smith, Stone, Van Horn, Worthington, Yates.

Representative Gray moved the adoption of the following **HR 54:**

HR 54, A RESOLUTION granting Junior Williamson of Pikeville, Kentucky, privilege of the House floor during the 1984 legislative session.

WHEREAS, Junior Williamson has unselfishly assisted the members of the General Assembly with their personal appearance and comfort - always serving as a confidant and source of moral support; and

WHEREAS, Junior Williamson is known throughout these hallowed halls for his cheerful disposition, positive attitude, and willingness to help his fellow man; and

WHEREAS, Junior Williamson proffers his services without charge - in fact, he adamantly refuses financial remuneration; and

WHEREAS, Junior is sensitive to our needs as legislators for confidentiality and privacy; and

WHEREAS, Junior Williamson is a favorite friend to all House members;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Junior Williamson of Pikeville, Kentucky, be extended and granted privilege of the House floor during the 1984 legislative session.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HR 54 was adopted and the title agreed to.

Representative Barrows moved that he be recorded as voting "yea" on **HB 318**. Agreed.

Representative White moved that she be recorded as changing her vote from "nay" to "yea" on **HB 435**. Agreed.

Representative Stone moved the adoption of the following Legislative Citation No. 37.

The House of Representatives of the Commonwealth of Kentucky hereby commends you, the dedicated members of the Bremen Fire Department of Muhlenberg County, for your outstanding contribution in the 1983 Fire Fighters Crusade against Muscular Dystrophy. Your participation in the Crusade earned you the honor of being in the "Top Ten Club", a distinction awarded those ten departments in the state who collected the largest amounts of money for the organization. The services that you perform for your community in Fire Prevention and well-being of your fellow man, prove your concern and compassion. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. This dedication, self-sacrifice and humanitarian spirit have made Bremen, and the Commonwealth of Kentucky, a better place in which to live.

This prestigious body salutes you for your unselfish and sacrificial services to all mankind. (Sponsored by Representative Stone)

Agreed.

Representative Mann moved that **HB 490** be reassigned to the Committee on Energy. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 33**; Representative Caldwell, **HB 478**; Representative Endicott, **HB 614**; Representative Hancock, **HB 450**; Representative Long, **HB 435**; Representative Noland, **HB 311**; Representative B. Smith, **HB 400, HR 48**; Representative Yates, **HB 535, HB 600.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 14,** by Representative LeMaster:

Amend printed copy of **HB 14** on page 1, line 1, after "All" insert "conspicuously marked";

and on page 1, line 5, after "for" insert "transporting prisoners";

and on page 1, line 5, delete "ordinary patrol";

and on page 1, line 6, delete "purposes".

Floor Amendment No. 1 to **HB 33,** by Representative Bendl:

Amend printed copy of Committee Substitute to **HB 33** by amending the title to read as follows: "AN

ACT relating to persons with developmental disabilities and making an appropriation therefor.

Floor Amendment No. 1 to **HB 418,** by Representative Donnermeyer:

Amend printed copy of **HB 418** on page 1, delete lines 20 and 21 in their entirety; and

on page 2, delete lines 1, 11, 12 and 13 in their entirety; and

on page 2, line 2, by deleting "(3)" and substituting in lieu thereof "(2)"; and

on page 2, line 8, by deleting "(1)".

Floor Amendment No. 1 to **HB 440,** by Representative Mann:

Amend printed copy of **HB 440** on page 2, lines 9, 10 and 11 by deleting the language contained therein and inserting in lieu thereof:

"*(4) A microbrewery shall not be located in dry territory.*"

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, February 16, 1984.

On the roll call the vote was yeas 74-Allen, Arnold, Bennett, Blevins, Bronger, Bruce, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 9-Deskins, Ford, Handy, Heleringer, Holloway, Maggard, Moore, Overstreet, Perkins.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 16, 1984

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Jerry Lowrie, Main Street Baptist Church, Williamsburg, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 15, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 177**, **HB 1** with Senate Amendment, **HB 19** with Senate Amendment, **HB 350** with Senate Amendments, and **HB 306**.

Introduction of Bills and Resolutions

HB 655, by Representatives Lundergan and Burnette: AN ACT relating to banks.

HB 656, by Representative Johnson: AN ACT relating to plumbing.

HB 657, by Representatives Hancock, T. Jones, Farrow, Barrows, and Long; AN ACT relating to service requirements in the Kentucky employes' retirement system.

HB 658, by Representative Hancock: AN ACT relating to cost-of-living increases.

HB 659, by Representatives McBee, Rapier, and Petty: AN ACT relating to the board of claims.

HB 660, by Representatives Harper and Caldwell: AN ACT relating to school buses.

HB 661, by Representative Robinson: AN ACT relating to crimes and punishments.

HR 64, by Representatives Cyrus, Deskins, Brinkley, Maggard, Holbrook, Brown, Cline, Blevins, Worthington, Endicott, Gray, Little, Arnold, and Stone: A RESOLUTION directing the Kentucky Department of Highways to name the soon to be constructed Greenup Dam Bridge in honor of U.S. Congressman Carl D. Perkins.

HR 65, by Representative Maggard: A RESOLUTION honoring Mrs. Marie R. Turner.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred to the following Bills and Resolutions:

Agriculture and Small Business: **HB 642.**

Appropriations and Revenue: **HB 638.**

Banking and Insurance: **HB 653.**

Cities: **HB 641.**

Education: **HB 654.**

Health and Welfare: **HB 645, SB 118.**

Judiciary-Civil: **HB 635, HB 639, HB 644, HB 646, HB 652.**

Judiciary-Criminal: **HB 636.**

Labor and Industry: **HB 648, HB 649.**

Natural Resources and Environment: **HB 647.**

State Government: **HB 637, HB 640, HB 643, HB 650, HJR 63, SB 135, SB 158, SB 164, SB 179, SB 180, SB 184, SB 186, SB 189.**

Transportation: **HB 651.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HJR 8, HB 578.**

Health and Welfare: **HB 157, HB 361, HB 492, HCR 18, HJR 58.**

Transportation: **HB 281, HB 430, HB 461, HB 497, HB 565, HB 610.**

Report of Committees

The Committee on Rules reported **HB 128, HB 284, HB 508, HB 29, HB 266, HB 434, HB 450, HB 258,** and **HB 319** have been posted for passage in Orders of the Day, February 17, 1984.

The Committee on Rules reported **HB 111** and **HB 483** have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Business Organizations and Professions reported **HB 389** with Committee Amendment attached thereto, **HB 455** with Committee Amendment attached thereto, and **HB 505** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 389, AN ACT relating to public accountants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.220 is amended to read as follows:
As used in this chapter, unless the context otherwise requires:
(1) [~~The term~~] "Board" when used in KRS 325.220 to 325.440 means the state board of accountancy created by KRS 325.230*;*[~~.~~]
(2) [~~The term~~] "State" when used in KRS 325.220 to 325.440 includes and means any state, territory or insular possession of the United States, or the District of Columbia*;*[~~.~~]
(3) [~~The term~~] "Public accountant" when used in KRS 325.220 to 325.440 means a public accountant issued a permit to practice by the state of Kentucky under the public accounting act of 1946 as amended*;*[~~.~~]
(4) "Attest," "attesting" or "attestation," when used with reference to financial information or the practice of public accountancy, means to issue, or the issuance of, opinions, reports or other forms of language which state or imply assurance as to the reliability of any financial information when such opinions, reports or other forms of language are accompanied by or include any name, title, or wording that indicates that the person or firm issuing them is an accountant or auditor or has expert knowledge in accounting or auditing. The terms include forms of language which disclaim an opinion when such forms of language are

conventionally understood to imply any positive assurance as to the reliability of the financial information referred to and expertise on the part of the person uttering such language; and any other form of language which is conventionally understood to imply such assurance and such expertise;

(5) "Practice of (or practicing) public accountancy" means the offering to perform or the performance by a licensee under this chapter, for a client or potential client, or one (1) or more types of services involving the use of accounting or auditing skills, or one (1) or more types of management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters;

(6) "Firm" means a sole proprietorship, partnership or professional service corporation or association engaged in the practice of public accountancy;

(7) "Certificate" means a certificate as a "certified public accountant" issued pursuant to KRS 325.261 or corresponding provisions of prior law; and

(8) "Licensee" means a certified public accountant, firm or public accountant, holding a permit to practice public accounting issued under this chapter.

Section 2. KRS 325.230 is amended to read as follows:

(1) There is hereby created a state board of accountancy, The board shall consist of seven (7) members, appointed by the governor. Whenever an appointment is to be made the Kentucky society of certified public accountants shall submit to the governor the names of three (3) persons for each vacancy to be filled. All persons recommended shall be qualified for membership on the board, and the governor shall appoint one (1) of the three (3) recommended. Members of the board shall be citizens of the United States and residents of this state who hold permits to practice issued under the provisions of this chapter. Of the new members appointed to the board, as provided by this section, one (1) member shall be appointed for a term of one (1) year and one (1) member shall be appointed for a term of four (4) years from June 19, 1976. Succeeding appointments to the board shall be for a term of four (4) years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office a member shall continue to serve until his successor shall have been appointed and shall have qualified. The governor shall remove from the board any member whose permit to practice is not renewed or which has become void, revoked or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause.

(2) Each member of the board shall be paid *one hundred dollars ($100)* [~~fifty dollars ($50)~~] for each day spent in the discharge of his official duties and shall be reimbursed for his actual and necessary expenses therein incurred.

Section 3. KRS 325.240 is amended to read as follows:

The board shall elect annually a president, a secretary and a treasurer from its members. The office of secretary and treasurer may be held by the same individual. The board may adopt, and amend from time to time, regulations, in accordance with the provisions of KRS Chapter 13, for the orderly conduct of its affairs and for the administration of *this chapter* [~~KRS 325.220 to 325.440~~]. The board may also promulgate, and amend from time to time, rules of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in the profession of public accounting. A majority of the board shall constitute a quorum for the transaction of business. The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings, and in any proceeding in court, civil or criminal, arising out of or founded upon any provision of *this chapter* [~~KRS 325.220 to 325.440~~], copies of said records certified as correct under the seal of the board shall be admissible in evidence as tending to prove the content of said records. The board shall have printed and published for public distribution, in September of each year, an annual register which shall contain the names, arranged alphabetically by classifications, of all individuals and *firms* [~~partnerships~~] holding permits to practice under *this chapter* [~~KRS 325.220 to 325.440~~]; the names of the members of the board; and such other matters as may be deemed proper by the board. Copies of said registers shall be mailed to each registered practitioner. The board may employ *an executive director and such other personnel as it deems necessary in its administration and enforcement of this chapter. It may appoint such committees or persons, to advise or assist it in the administration and enforcement, as it may see fit. It may retain its own counsel to advise and assist it, in addition to such advice and assistance as is provided by the attorney general of this state* [~~clerks and arrange for assistance in the performance of its duties~~].

Section 4. KRS 325.250 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of *this chapter* [~~KRS 325.220 to 325.440~~] shall be paid to the treasurer of the board for the use of the board, and shall be deposited in the state treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this state. The compensation provided by *this chapter* [~~KRS 325.220 to 325.440~~] and all expenses incurred under *this chapter* [~~KRS 325.220 to 325.440~~] shall be paid from this revolving fund. No such compensation or expense shall be a charge against the general funds of this state. The board shall file an annual report of its activities with the governor, and such report shall include a statement of all receipts and disbursements.

Section 5. KRS 325.261 is amended to read as follows:

The certificate of "certified public accountant" shall be granted by the board to any person:

(1) Who is a resident of this state or who has a place of business or is employed therein, at the time of

admission to the examination, and has met the requirements established by the board, and

(2) Who has attained the age of eighteen (18) years, and who is of good moral character, and

(3) Who possesses the educational and experience requirements below:

(a) A baccalaureate degree conferred by a college or university recognized by the board with a major or concentration program in accounting or its equivalent, and two (2) years of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or such other experience or employment as the board in its discretion may regard as substantially equivalent thereto, or

(b) A master's degree in accounting or business administration conferred by a college or university recognized by the board, with the equivalent of a major or concentration program in accounting at either the graduate or undergraduate level, and one (1) year of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or such other experience or employment as the board in its discretion may regard as substantially equivalent thereto, or

(c) [~~Until July 1, 1979 a baccalaureate degree conferred by a college or university recognized by the board, and three (3) years of public accounting experience of a quality satisfactory to the board, including participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220 or a certified public accountant of any state, or~~

~~(d) Until six (6) years after July 1, 1968, a graduate of a high school and six (6) years of public accounting experience of a quality satisfactory to the board, including the participation in the examination of financial statements for third-party reliance, in the employ of a public accountant as defined in KRS 325.220, or a certified public accountant of any state, or such other experience or employment as the board in its discretion may regard as substantially equivalent thereto, or~~

~~(e)~~] Who holds a permit to practice as a public accountant as defined in KRS 325.220, and

(d)[~~(f)~~] The experience requirement of paragraph (a) or (b) of this subsection may be satisfied by four (4) years' experience as a field audit agent in the internal revenue service, of which two (2) years is at the journeyman level (presently GS-11 or its future equivalent) in auditing financial statements and supporting materials of three (3) or more distinct lines of commercial or industrial businesses to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles and applicable laws and government regulations. The board shall be the sole and final judge of the qualification of experience under this section.

(e)[~~(g) The experience requirement of paragraph (c) of this subsection may be satisfied by five (5) years' experience as a field audit agent of the internal revenue service of which three (3) years is at the journeyman level (presently GS-11 or its future equivalent) in auditing financial statements and supporting material of three (3) or more distinct lines of commercial or industrial businesses to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles and applicable laws and government regulations. The board shall be the sole and final judge of the qualification of experience under this section.~~

~~(h)~~] The experience requirements of paragraph (a) of this subsection shall be satisfied by two (2) years' experience in the employment of any agency of state government as an auditor or accountant; provided that such experience is gained under the supervision of a certified public accountant and includes application of the attest function using standards adopted by the American Institute of Certified Public Accountants.

(f)[~~(i)~~] The experience requirements of paragraph (b) of this subsection shall be satisfied by one year's experience in the employment of any agency of state government as an auditor or accountant; provided that such experience is gained under the supervision of a certified public accountant and includes application of the attest function using standards adopted by the American Institute of Certified Public Accountants.

(4) Who shall have successfully passed a written examination in accounting and auditing, and in such other related subjects as the board may deem advisable.

(5) Application for a certificate of certified public accountant shall be made on a form prescribed by the board. The board may set a fee for the issuance of a certificate not to exceed *fifty dollars ($50.00)* [~~twenty-five dollars ($25.00)~~].

Section 6. KRS 325.265 is amended to read as follows:

(1) Any person shall be eligible for admission to the certified public accountant examination who meets the qualifications set forth in subsections (1) and (2) of KRS 325.261, and

(a) Who meets the educational requirements only of subsections (3)(a) or (b) of KRS 325.261, or

(b) [~~Who meets both the educational and experience requirements provided in subsections (3)(c) or (d) of KRS 325.261 before the date of application, or~~

~~(c)~~] Who holds a permit to practice as a public accountant as defined in KRS 325.220.

(c)[~~(d)~~] An applicant who has met the requirements for admission to the examination [~~and who has met the terms and conditions of KRS 325.270(3)~~] shall be eligible to continue sitting for the examination until

his application has been filed away by the board.

(2) A candidate for the certificate of certified public accountant who has successfully completed the examination prior to completion of his qualifying experience as permitted under subsection *(3)(a) or (b) of KRS 325.261* [~~(1)(a) of this section~~] is not a certified public accountant and shall not designate himself as such unless and until he has the requisite experience and has received his certificate as a certified public accountant.

Section 7. KRS 325.270 is amended to read as follows:

(1) Examinations provided for in *this chapter* [~~KRS 325.220 to 325.440~~] shall be held by the board as often as may be necessary in the opinion of the board, but not less frequently than once each year.

(2) The board may by regulation provide for granting a credit to a candidate for his satisfactory completion of a written examination in any two (2) or more of the subjects specified in subsection (4) of KRS 325.261, or the accounting practice portion of the examination alone, given by the licensing authority in any other state; provided, that when he took such examination in such other state he met all the requirements for admission to the examination under KRS 325.265 except for the requirement as to residence.

(3) The board may by regulation prescribe the terms and conditions under which a candidate who passes the examination in two (2) or more of the subjects indicated in subsection (4) of KRS 325.261, or the accounting practice portion of the examination alone, may be re-examined in only the remaining subjects, with credit for the subjects previously passed. It may also provide by regulation for a reasonable waiting period for a candidate's re-examination in a subject he has failed. Subject to the foregoing and such other regulations as the board may adopt governing re-examinations, a candidate shall be entitled to any number of re-examinations.

(4) The board shall charge each candidate a fee not to exceed *two hundred dollars ($200)* [~~one hundred dollars ($100)~~] for the initial examination. This fee shall be payable by the candidate at the time prescribed by regulation of the board. Should the candidate fail to pass the examination, re-examination will be given the same candidate for an additional fee not to exceed *forty dollars ($40.00)* [~~twenty dollars ($20.00)~~] for each subject or part thereof in which the candidate is examined.

Section 8. KRS 325.280 is amended to read as follows:

(1) Individuals who at the time of the enactment of *this chapter* [~~KRS 325.220 to 325.440~~] held certified public accountant certificates heretofore issued under the laws of this state shall not be required to secure additional certificates under *this chapter* [~~KRS 325.220 to 325.440~~] but shall otherwise be subject to all of their provisions; and such certificates heretofore issued shall, for all purposes, be considered certificates issued under *this chapter* [~~KRS 325.220 to 325.440~~] and subject to all of their provisions.

(2) The board may in its discretion waive the examination under KRS 325.265 and may issue a certificate as a "certified public accountant" to any person possessing the qualifications specified in subsections (1) and (2) of KRS 325.261 and what the board determines to be substantially the equivalent of the applicable qualifications under subsection (3) of KRS 325.261, who is the holder of a certificate as a certified public accountant, then in force, issued under the laws of any state, or is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in force.

(3) The board may grant a certificate to a holder of a certificate issued by another state, provided that the applicant:

(a) Meets all current requirements in this state at the time application is made;

(b) At the time of the issuance of the applicant's certificate in the other state, met all requirements then applicable in this state; or

(c) Had four (4) years of acceptable experience in the practice of public accountancy after passing the examination upon which his certificate was based and within the ten (10) years immediately preceding his application.

Section 9. KRS 325.310 is amended to read as follows:

(1) Any person who is a resident of this state, or has a place of business, or is employed therein, and who has attained the age of twenty-one (21) years, and who is of good moral character, and who meets the requirements of paragraphs (a) or (b) [~~or (c)~~] of this subsection, may register as a public accountant with the board on or before the first day of July, 1946.

(a) Persons who held themselves out to the public as public accountants and who were engaged within this state on June 19, 1946 in the practice of public accounting as their principal occupation.

(b) Staff accountants employed by certified public accountants or by public accountants and regularly assigned to accounting engagements on June 19, 1946.

[~~(c) Persons serving in the armed forces of the United States or any of the United Nations who immediately prior to entering such service held themselves out to the public as public accountants and were engaged in the practice of public accounting as their principal occupation, or who were employed as staff accountants by certified public accountants or by public accountants and regularly assigned to accounting engagements. In the case of any such person serving in the armed forces of the United States or any of the United Nations on June 19, 1946, the time for registration shall be extended for a period of twelve (12)~~

~~months from the time such person is honorably discharged from such service.~~]

(2) The board shall in each case determine whether the applicant is eligible for registration. Any individual who is so registered and who holds a permit issued under KRS 325.330 shall be styled and known as a "public accountant."

Section 10. KRS 325.330 is amended to read as follows:

(1) Permits to engage in the practice of public accounting in this state shall be issued by the board to individuals, partnerships and corporations qualifying under *this chapter* [~~KRS 325.261 to 325.321~~] after the payment by each such certificate holder, individual, partnership or corporation of an annual permit fee to be fixed by the board not to exceed *one hundred dollars ($100)* [~~fifty dollars ($50.00)~~]. All permits shall expire on the first day of July of each year, but may, annually, be renewed for a period of one (1) year by permit holders in good standing upon the payment of a fee for renewal as herein provided. The renewal fee is due on or before the expiration date of the holder's permit, but failure to renew a permit before expiration thereof, except as provided in subsection *(1)(i)* [~~(10)~~] of KRS 325.340, shall not deprive a permit holder of the right to renewal; in such cases a permit holder in good standing may renew his permit by payment of any and all annual fees unpaid by him since the expiration of his permit and by payment of a penalty of *twenty dollars ($20.00)* [~~ten dollars ($10.00)~~] in addition thereto. *The board may, in its discretion reduce or waive the above requirements in cases of illness, retirement from practice and similar situations.*

(2) Effective for the year beginning July 1, 1985, every application by a certified public accountant for renewal of a permit to practice shall be accompanied or supported by such evidence as the board shall prescribe of satisfactory completion of twenty (20) hours of continuing professional education courses, which are professionally enhancing, during the twelve (12) month period prior to permit renewal. The board may provide for lesser, prorated education requirements for applicants whose initial permit was issued substantially less than one (1) year prior to the renewal date.

(3) The board may, in its discretion, waive or lower the annual continuing education requirement for reasons of age, disability or individual hardship.

Section 11. KRS 325.340 is amended to read as follows:

(1) After notice and hearing as provided in KRS 325.360, the board may revoke or suspend any certificate of a certified public accountant issued under this chapter or any registration of a public accountant granted under KRS 325.310, or may revoke, suspend or refuse to *issue or* renew any permit issued under KRS 325.330, or may censure the holder of any such permit, *place any licensee on probation, all with or without terms,* for any one (1) or any combination of the following causes:

(a)[~~(1)~~] Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under *this chapter* [~~KRS 325.220 to 325.440~~], or in obtaining a permit to practice public accounting under *this chapter;* [~~KRS 325.220 to 325.440.~~]

(b)[~~(2)~~] Dishonesty, fraud or negligence in the practice of public accounting*;*[~~.~~]

(c)[~~(3)~~] Violation of any of the provisions of *this Act or rules promulgated by the board under this Act;* [~~KRS 325.380.~~]

(d)[~~(4)~~] Violation of a rule of professional conduct promulgated by the board under the authority granted by chapter 143 of the Acts of 1968*;*[~~.~~]

(e)[~~(5)~~] Conviction of a felony *or of any crime an element of which is dishonesty or fraud,* under the laws of any state or of the United States*;*[~~.~~

~~(6) Conviction of any crime, an essential element of which is dishonesty or fraud, under the law of any state or of the United States.~~]

(f)[~~(7)~~] Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state*;*[~~.~~]

(g)[~~(8)~~] Suspension or revocation of the right to practice before any state or federal agency*;*[~~.~~]

(h)[~~(9)~~] Failure to become a citizen of the United States within six (6) years by any person not a citizen of the United States when he received a certificate as certified public accountant under *this chapter;* [~~KRS 325.220 to 325.440.~~]

(i)[~~(10)~~] Failure of a certificate holder or registrant to obtain an annual permit to practice as required under KRS 325.330, *1.* [~~(a)~~] within three (3) years from the expiration date of the permit to practice last obtained or renewed by said certificate holder or registrant, or *2.* [~~(b)~~] within three (3) years of the date upon which the certificate holder or registrant was granted his certificate or registration*; or*[~~, if no permit was ever issued to such registrant, provided, however, that no action affecting a certificate holder or a registrant shall be taken by the board under this subsection until it shall appear that such certificate holder or registrant failed to renew his permit for the year ending July 1, 1953, on or before that date, or failed to renew his permit for a year or years ending after July 1, 1953.~~]

(j)[~~(11)~~] Conduct discreditable to the accounting profession.

(2) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent licensee to pay the costs of the proceeding.

Section 12. KRS 325.350 is amended to read as follows:

(1) After notice and hearing as provided in KRS 325.360 the board shall revoke the registration and

permit to practice of a *firm* [~~partnership or corporation~~] if at any time it does not have all the qualifications prescribed by *this chapter* [~~the section of KRS 325.220 to 325.440~~] under which it qualified for registration.

(2) After notice and hearing as provided in KRS 325.360 the board may revoke or suspend the registration or may revoke, suspend or refuse to renew the permit to practice of a *firm* [~~partnership or corporation~~] or may censure the holder of any such permit for any of the causes enumerated in KRS 325.340, and for the following additional causes:

(a) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner or shareholder*; or*[~~.~~]

(b) The cancellation, revocation, suspension or refusal to renew the authority of the *firm* [~~partnership or corporation~~] or any partner or shareholder thereof to practice public accounting in any other state.

Section 13. KRS 325.360 is amended to read as follows:

(1) The board may *conduct investigations of suspected violations of this chapter or of the rules of the board to determine whether there is probable cause to institute proceedings against any person or firm for such violation under KRS 325.265; but an investigation under this section shall not be a prerequisite to such proceedings. In aid of such investigations, the board or its designee may issue subpoenas to compel witnesses to testify and to produce evidence* [~~initiate proceedings under KRS 325.220 to 325.440 either on its own motion or on the complaint of any person~~].

(2) *The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. The board shall find probable cause or lack of probable cause upon the basis of the report, or shall return the report to the investigating officer for further investigation. Until there has been a determination of probable cause, the report of the investigating officer, the testimony and documents gathered in the investigation and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation* [~~A written notice stating with reasonable particularity the nature of the charge and such acts of professional misconduct as are complained of against the accused and the time and place of the hearing before the board on such charges shall be served on the accused not less than thirty (30) days prior to the date of the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the address of the accused last known to the board~~].

(3) *Upon finding of probable cause, if the subject of the investigation is a licensee, the board shall direct that a complaint be issued pursuant to this section; and if the subject of the investigation is not a licensee, the board shall take appropriate action pursuant to KRS 325.990. Upon a finding of no probable cause, the board shall close the matter and thereafter release information relating thereto only with the consent of the board or of the person or firm under investigation.*

(4) In any case where probable cause has been determined pursuant to KRS 325.360 with respect to a violation by a licensee, or where the board has received a written complaint by any person furnishing grounds for a determination of such probable cause or where the board has received notice of a decision by the board of accountancy of another state furnishing such grounds, the board shall issue a complaint setting forth appropriate charges and set a date for hearing before the board on such charges. The board shall not less than thirty (30) days prior to the date of the hearing, serve a copy of the complaint and notice of the time and place of the hearing upon the licensee, together with a copy of the board's rules governing proceedings under this section, either by personal delivery or mailing a copy thereof by registered mail to the licensee at his address last known to the board.

(5) A licensee against whom a complaint has been issued under this section shall have the right, reasonably in advance of the hearing, to examine and copy the report of investigation, if any, and any documentary or testimonial evidence and summaries of anticipated evidence, in the board's possession relating to the subject matter of the complaint. The board's rules governing proceedings under this section shall specify the manner in which such right may be exercised.

(6) If, after having been served with the notice of hearing as provided for herein, the *respondent* [~~accused~~] fails to appear at said hearing, the board may hear evidence against him and may enter such order as shall be justified by the evidence, which order shall be final unless he petitions for a review thereof as provided herein: provided, however, that within thirty (30) days from the date of any order, upon a showing of good cause for failing to appear, the board may reopen said proceedings and may permit the *respondent* [~~accused~~] to submit evidence in his behalf.

(7) In a hearing under this section the respondent licensee may appear in person (or, in the case of a firm, through a partner, officer, director or shareholder) and by counsel, examine witnesses and evidence presented in support of the complaint, and present evidence and witnesses on his own behalf. The licensee shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence [~~(4) At any hearing the accused may appear in~~

~~person or by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence and documents as may be produced against him. The accused shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf~~].

(8) The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under this section, shall not participate in the board's decision of the matter.

(9)[~~(5)~~] The board, or *its designee* [~~any member thereof~~], may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proof and receive exhibits in evidence in connection with or at the hearing under *this chapter* [~~KRS 325.220 to 325.440~~]. In case of disobedience to a subpoena the board may invoke the aid of the Franklin Circuit Court. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(10)[~~(6)~~] The board shall not be bound by technical rules of evidence.

(11)[~~(7)~~] A stenographic record of the hearing shall be kept and a transcript thereof filed with the board.

(12)[~~(8)~~] At all hearings the attorney general of this state, or one (1) of his assistants designated by him *or such other legal counsel as may be employed* shall appear and represent the board. *Said counsel shall not be the same counsel who presents or assists in presenting the evidence supporting the complaint pursuant to subsection (8) of this section.*

(13) In a hearing under this section a vote of a majority of all members of the board then in office (other than a member disqualified by reason of subsection (8) of this section) shall be required to sustain any charge and to impose any penalty with respect thereto.

(14)[~~(9) The decision of the board shall be by majority vote thereof. (10)~~] Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court within thirty (30) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the board and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. No new or additional evidence shall be introduced in the Franklin Circuit Court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the executive *director* [~~secretary~~] of the accountancy board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case. The court's order shall have the force and effect of a decree in equity and may be appealed to the Court of Appeals.

(15) On rendering a decision to revoke, suspend, refuse to renew, or censure the holder of a certificate or a permit to practice issued under KRS 325.330 the board shall examine its records to determine whether the respondent holds a certificate, a registration, or a permit to practice in any other state. If the board determines that the respondent holds a certificate, a registration, or a permit to practice in any other state, the board shall notify the board of accountancy of such other state of its decision by mail within thirty (30) days of rendering such decision.

(16) The board may exchange information relating to proceedings resulting in disciplinary action against licensees with the boards of accountancy of other states and with other public authorities or private organizations having an interest in such information.

Section 14. KRS 325.370 is amended to read as follows:

(1) In any case where the board has suspended or revoked a certificate or a permit or refused to renew a permit, the board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension or reissue the certificate and permit. [~~The board may reissue the certificate of any certified public accountant whose certificate shall have been revoked, or may permit the reregistration of any person whose registration has been revoked, or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.~~]

(2) The board shall by regulation specify the manner in which such applications shall be made, the times within which they shall be made, and the circumstances in which hearings will be held thereon.

Section 15. KRS 325.380 is amended to read as follows:

(1) No person shall assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending

to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under KRS 325.330 which has not been revoked or suspended and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.

(2) No *firm* [~~partnership or corporation~~] shall assume or use the title or designation "certified public accountants" or the abbreviation "CPA's" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such *firm* [~~partnership or corporation~~] is composed of certified public accountants unless such *firm* [~~partnership or corporation~~] is registered as a *firm* [~~partnership or corporation~~] of certified public accountants under KRS 325.300, holds a permit issued under KRS 325.330 which has not been revoked or suspended and all offices of such *firm* [~~partnerships or corporation~~] in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.

(3) No individual shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under KRS 325.310 and holds a permit issued under KRS 325.330 which has not been revoked or suspended and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321, or unless such person has received a certificate as a certified public accountant under this chapter and holds a permit issued under KRS 325.330 which has not been revoked or suspended and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.

(4) No *firm* [~~partnership or corporation~~] shall assume or use the title or designation "public accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such *firm* [~~partnership or corporation~~] is composed of public accountants, unless such *firm* [~~partnership or corporation~~] is registered as a *firm* [~~partnership or corporation~~] of public accountants under KRS 325.320 or as a *firm* [~~partnership or corporation~~] of certified public accountants under KRS 325.300 and holds a permit issued under KRS 325.330 which has not been revoked or suspended and all offices of such *firm* [~~partnership or corporation~~] in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.

(5) No individuals, *or firm* [~~partnership or corporation~~] shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited auditor," "accounting practitioner," "accredited accountant," "expert accountant," "expert auditor," "certified auditor," or any other title or designation likely to be confused with "certified public accountant" and "public accountant" or any of the abbreviations "CA," "AP," "PA," "EA," "RA," "LA," or "AA" or similar abbreviations likely to be confused with "CPA."

(6) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (a) financial information or (b) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording accompanying or contained in such opinion or certificate, which indicates (i) that he is an accountant or auditor, or (ii) that he has expert knowledge in accounting or auditing, unless he holds a permit issued under KRS 325.330 which has not been revoked or suspended, and all offices of such individuals located in this state for the practice of public accounting are maintained and registered as required under KRS 325.321; provided, however, that the provisions of this subsection shall not prohibit any officer, employe, partner or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title, or office which he holds in said organization, nor shall the provisions of this subsection prohibit any act of a public official or public employe in the performance of his duties as such.

(7) No person shall sign or affix a *firm* [~~partnership or corporate~~] name to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (a) financial information or (b) facts respecting compliance with conditions established by law or contract, including but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording, accompanying or contained in such opinion or certificate, which indicates that such *firm* [~~partnership or corporation~~] is composed of or employs (i) accountants or auditors or (ii) persons having expert knowledge in accounting or auditing, unless the *firm* [~~partnership or corporation~~] holds a permit issued under KRS 325.330 which has not been revoked or suspended and all offices of such person in this state for the practice of public accounting are maintained and registered as required under KRS 325.321.

(8) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a *firm* [~~partnership or corporation~~], or in conjunction with the designation "and Company" or "and Associates" or a similar designation if, in any such case, there is in fact no bona fide *firm* [~~partnership or corporation~~] registered under KRS 325.300 or 325.320.

(9) No corporation performing functions permitted by this chapter shall use designations such as "and Company" or "and Associates" or a similar designation, if in any such case, there is in fact only one

shareholder.

(10) No person or firm holding a permit under this chapter shall engage in the practice of public accountancy using a professional or firm name or designation which is misleading as to the legal form of the firm, or as to the persons who are partners, officers or shareholders of the firm, or as to any other matters; provided, that names of one (1) or more deceased or retired partners or shareholders may be included in the name of a firm or its successor.

Section 16. KRS 325.390 is amended to read as follows:

(1) Nothing contained in *this chapter* [~~KRS 325.220 to 325.440~~] shall prohibit any individual not a certified public accountant or public accountant from serving as an employe of, or an assistant to, a certified public accountant or public accountant or *firm* [~~partnership or corporation~~] composed of certified public accountants or public accountants holding a permit to practice under KRS 325.330; Provided That such employe or assistant shall not issue any accounting or financial statement over his name.

(2) The board shall adopt rules and regulations providing for the issuance of temporary permits upon written application, as a privilege to out-of-state certified public accountants *or firm* [~~, partnerships, or corporations~~] of certified public accountants for the purpose of enabling such individuals *or firms* [~~, partnerships or corporations~~] to perform public accounting services in Kentucky. No such temporary permit shall be valid for more than six (6) months after its issuance. After the expiration of six (6) months, a new permit shall be required. Such temporary practice must be conducted in conformity with the regulations and rules of professional conduct promulgated by the board.

(a) A temporary permit shall not be required if the out-of-state certified public accountant *or firm* [~~, partnership or corporation~~] of certified public accountants is entering the state solely for the purpose of serving as a bona fide employe, partner or shareholder of a Kentucky registrant in performing services for the clients of the Kentucky registrant.

(b) Each application of an out-of-state certified public accountant *or firm* [~~, partnership or corporation~~] of certified public accountants for a temporary permit shall require a payment of a permit fee to be fixed by the board not to exceed *one hundred dollars ($100)* [~~fifty dollars $50.00~~].

(c) The application by an out-of-state certified public accountant *or firm* [~~, partnership or corporation~~] of certified public accountants for a temporary permit shall constitute the appointment of the secretary of state as their agent on whom process may be served in any action or proceeding against them arising out of any transaction or operation connected with or incidental to fulfilling the engagements for which the temporary permit was issued.

Section 17. KRS 325.400 is amended to read as follows:

Whenever in the judgment of the board any person *or firm* [~~, partnership or corporation~~] has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of *this* [~~KRS~~] chapter [~~325~~], the board may make application to the Franklin Circuit Court for an order enjoining such acts or practices, and upon a showing by the board that such person *or firm* [~~, partnership or corporation~~] has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court. The same shall be enforceable and shall be valid anywhere in this state and shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.

Section 18. KRS 325.410 is amended to read as follows:

The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" shall be prima facie evidence in any action brought under KRS 325.400 or 325.990 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device, and that such person is holding himself or itself out to be a certified public accountant or a public accountant holding a permit to practice under KRS 325.330. In any such action evidence of the commission of a single act prohibited by *this chapter* [~~KRS 325.220 to 325.440~~] shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

Section 19. KRS 325.440 is amended to read as follows:

(1) A licensee shall not, without the consent of his client, disclose any confidential information pertaining to his client obtained in the course of performing professional services.

(2) This section does not:

(a) Relieve a licensee of any obligations under the rules of professional conduct;

(b) Affect in any way a licensee's obligation to comply with a validly issued subpoena or summons enforceable by order of a court;

(c) Prohibit disclosures in the course of a quality review of a licensee's professional services; or

(d) Preclude a licensee from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board.

(3) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from licensees in disciplinary proceedings or otherwise in

carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body of the kind referred to above. [~~A certified public accountant or public accountant shall not be required by any court to divulge information or evidence which has been obtained by him in his confidential capacity as such.~~]

The Committee Amendment No. 1 to **HB 389** is as follows:

Amend printed copy of **HB 389** on page 2, line 19, after the word "*matters*" by adding the following:

"*This definition does not prohibit anyone who is not a certified public accountant from performing accounting services, such as the preparation of tax return or financial statements, for which attestation by the preparer is not required.*"

HB 455, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

No provision in this chapter shall be construed to authorize a local option election in any territory other than a county as a whole or a city of the first four (4) classes with the sole exceptions being KRS 242.125 and 242.1292.

The Committee Amendment No. 1 to **HB 455** is as follows:

Amend printed copy of **HB 455** on page 1, line 6, after "242.125" by adding "*242.127, 242.130*"

HB 505, AN ACT relating to embalmers and funeral directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 316.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) *"Apprentice" means a person engaged in learning the practice of embalming or funeral directing who has complied with the requirements of this chapter, and the regulations adopted thereto, pertaining to the qualifications of apprentices, and who is under the instruction and personal supervision of a funeral director and embalmer licensed by the Kentucky State Board of Embalmers and Funeral directors;*

(2) "Association" means the Funeral Directors Association of Kentucky;

(3)[~~(2)~~] "Board" means the state board of embalmers and funeral directors;

(4)[~~(3)~~] "Branch establishment" means an establishment owned by a licensed funeral director in a place apart from his main establishment.

(5) "Embalmer" means a person who preserves, restores and disinfects dead human bodies by the application of chemical substances either externally or internally, or both;

(6) "Funeral director" means a person who, for profit, engages in or represents himself as engaged in the supervision, direction and arrangement of funeral services, transportations, burials and disposals of dead human bodies;

(7) "Funeral establishment" means a place of business used for arranging, directing or supervising funerals for profit or other benefit; or where dead human bodies are embalmed or otherwise prepared for burial; or where it is represented that an individual is engaged in the business of funeral directing or embalming;

(8) "Person" as used in this chapter includes, but is not limited to, an individual, partnership, firm, association or corporation.

Section 2. KRS 316.130 is amended to read as follows:

(1) No license granted under this chapter shall be issued or renewed for a period exceeding one (1) year. Every license and renewal shall expire on July 31 following the date of its issuance unless sooner revoked or canceled.

(2) Every licensed embalmer and every licensed funeral director who desires to continue to practice shall have his license renewed by filing an application for renewal with the secretary of the state board each

year within thirty (30) days next before the expiration of his license, upon blanks furnished by the board. He shall pay a renewal fee of twenty dollars ($20).

(3) Every licensed funeral establishment shall renew its license by filing an application for renewal with the secretary of the state board each year within thirty (30) days next before the expiration of the current license, on blanks furnished by the board. The renewal fee shall be fifty dollars ($50.00)

(4) No license granted under this chapter shall be transferable.

Section 3. KRS 316.150 is amended to read as follows:

(1) The board may, upon sufficient proof submitted to them by sworn statements or testimony, refuse to issue, refuse to renew, or may revoke or suspend, the license of any licensed Kentucky embalmer or funeral director for any of the following causes:

(a) Conviction for violation of the requirements of this chapter; conviction of a felony, or any misdemeanor resulting in imprisonment or a fine of more than five hundred dollars ($500);

(b) The payment or offering to pay, directly or indirectly, of any consideration of value to secure a funeral, prior to death or after death of any individual, or allowing any person in his employ or a member of his immediate family to pay anything of value to secure a funeral;

(c) The solicitation of business in any way by offering or giving any service which is not a normal function of a licensed funeral director or embalmer in a regular service;

(d) Permitting any person who is not a licensed embalmer or funeral director, holding Kentucky license in full force and effect, to perform any service pertaining to embalming or funeral directing required by law of a licensed embalmer or funeral director, from the time of death until interment;

(e) For assisting any applicant for funeral director's or embalmer's license to obtain the license by misrepresentation or fraud either in making application for apprenticeship, registration for apprenticeship, or during the period of serving apprenticeship, or in taking or passing the examination for embalmer's or funeral director's license;

(f) For the operation of a branch establishment without a licensed embalmer and funeral director in complete charge who devotes his or her sole time to the management and affairs of the branch establishment and who is subject to call at all times in the section where the branch is located. The branch manager must be a licensed embalmer and a licensed funeral director with his license in full force and effect in Kentucky*;*

(g) Violation of any of the provisions of this chapter or any lawful order, rule or regulation made or issued under the provisions of this chapter; or

(h) Any other conduct which constitutes unprofessional, fraudulent or dishonest dealing.

(2) The board may, on sufficient proof submitted to them by sworn statements or testimony, refuse to issue or renew, or may revoke or suspend the license of any funeral establishment for any of the following causes:

(a) For fraud or misrepresentation in the application for the funeral establishment license;

(b) For the operation of a funeral establishment in violation of the provisions of this chapter or any lawful order, rule or regulation made or issued under the provisions of this chapter; and

(c) For the operation of a funeral establishment without a licensed embalmer and funeral director who is solely responsible for the operation of that funeral establishment and who in fact devotes his working hours to the particular funeral establishment for which he is responsible [~~For the purposes of taking testimony under this section, and for the purposes of any other section of this chapter, each member of the board, and the secretary thereof, is hereby endowed with the authority to administer oaths in the same manner as a clerk of a court of record. The board, or any member thereof, may subpoena licensees or other witnesses to appear before it~~].

SECTION 4. A NEW SECTION OF KRS CHAPTER 316 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate funeral establishment in the Commonwealth after the effective date of this statute without first obtaining a funeral establishment license issued by the state board of embalmers and funeral directors. Application for such license shall be on a form prescribed by the board.

(2) (a) A fee of fifty dollars ($50.00) shall be required with each application. All applications must be verified under oath and show the following:

1. Name of the funeral establishment;

2. Address of the funeral establishment;

3. Owner(s) of the funeral establishment, indicating which owner(s) are licensed by the board; and

4. The name and address of the licensed embalmer and funeral director who will be responsible for the operation of the funeral establishment.

(b) For purposes of this section, each branch establishment shall be licensed separately and apart from any main or other branch establishment.

SECTION 5. A NEW SECTION OF KRS CHAPTER 316 IS CREATED TO READ AS FOLLOWS:

(1) The board shall, before denying an application for license or before suspending or revoking any license, or before placing any licensee on probation, set the matter down for hearing; and at least twenty (20)

days prior to the date set for the hearing it shall notify the applicant or licensee in writing. The notice shall contain an exact statement of the charges made and the date and place of the hearing.

(2) The notice may be served by delivery personally to the applicant or licensee or by mailing by certified mail, return receipt requested, to the last known business or home address of the applicant or licensee.

(3) The hearing on the charges shall be at the time and place the board shall prescribe.

(4) The applicant or licensee in all hearings shall have the opportunity to be heard in person or by counsel.

(5) The board may issue such orders as it deems appropriate to facilitate any hearing under this section.

(6) For the purposes of taking testimony under this section, and for the purposes of any other section of this chapter, each member of the board, and the secretary thereof, is hereby endowed with the authority to administer oaths in the same manner as a clerk of a court of record. The board, or any member thereof, may subpoena licensees or other witnesses to appear before it.

(7) The board shall not be bound by technical rules of evidence, but the order of the board shall be based on competent evidence.

Section 6. KRS 316.210 is amended to read as follows:

(1) Every member of the board with the exception of the secretary shall receive compensation of *one hundred* [~~twenty-five~~] dollars *($100)* [~~($25.00)~~] per day, not to exceed sixty (60) days per year actually spent by him upon the business of the board, and shall be reimbursed for his necessary traveling expenses and other necessary expenses incurred incident to attendance of board meeting and other business of the board.

(2) The secretary shall receive an annual salary to be fixed by the board. In addition to the salary the secretary shall receive necessary traveling expense incurred in the performance of his duties.

(3) The board shall meet as often as is necessary to efficiently and legally discharge the duties of the board and the requirements of this chapter, but not less often than once a year. Three (3) members of the board will constitute a quorum.

(4) The board shall adopt, promulgate and enforce regulations for the transaction of its business, the management of its affairs, and the promotion of the educational standards of the profession, as it considers expedient and consistent with the laws of this state. All regulations must be filed with the legislative research commission.

(5) The board shall adopt a common seal.

(6) The board shall prescribe standards of efficiency of those who are engaged in the practice of embalming and funeral directing, employ any clerical help necessary to carry out the requirements of this chapter, and set the terms, conditions and compensation of such employes.

The Committee on Banking and Insurance reported **HB 290**, with Committee Amendment attached thereto, and **HB 494**, with Committee Amendment attached thereto, with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 290, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.12-210, Discrimination in property, casualty or surety policies on group basis prohibited -- Grandfather clause, is repealed.

The Committee Amendment No. 1 to **HB 290** is as follows:

Amend printed copy of **HB 290** on page 1, lines 1-3, by deleting lines 1-3 in their entirety and inserting in lieu thereof:

"Section 1. KRS 304.12-210 is amended to read as follows:

(1) No insurer or any person on behalf of any insurer shall make, offer to make, or permit any preference or distinction in property, marine, casualty or surety insurance as to form of policy, certificate, premium rate, benefits, preferred distribution of profits or dividends, or conditions of insurance, on a group basis, based upon membership, nonmembership, employment, or of any person or persons by or in any particular group, association, corporation, or organization, or employes of any particular employer, and shall not make the foregoing preference or distinction available in any event based upon any fictitious grouping of persons as defined in this code, such fictitious grouping being hereby defined and declared to be

any grouping by way of membership, nonmembership, license, franchise, employment, contract agreement or any other method or means, except, where under common majority ownership and the same direct operating management.

(2) The restrictions and limitations of this section shall not extend or apply to *automobile,* life, health, accident or disability insurance, or where those groups are engaged in a joint venture or a common construction or demolition project.

(3) Nothing in this section shall apply to any company which confines its direct insurance business to this state and to the providing of insurance for the benefit of its members, or members of its parent or sponsoring organization, providing such company was in existence and confining its insurance business and operations in such manner prior to January 1, 1968.

HB 494, AN ACT relating to manufactured homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 360.150 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Lender" means a person regularly engaged in the business of selling or financing manufactured homes*:*

1. Who is an arranger of credit*;* [~~,~~] or

2. Who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four (4) installments (not including a down payment) and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract*;*[~~.~~]

(b) "Interest" means finance charge expressed as an annual percentage rate. The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the lender as an incident to or a condition of the extension of credit*;*[~~.~~]

(c) "Manufactured home" means a *moveable dwelling unit, designed and constructed for permanent occupancy by a single family, which dwelling contains permanent eating, cooking, sleeping, and sanitary facilities; or a* prefabricated dwelling that is manufactured in one (1) or more modules at a location other than a homesite and which is designed to be used as a residence when the modules are transported to the homesite, and the modules are joined together and installed on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure*; and*[~~.~~]

(d) "Manufactured home financing transaction" shall include both the credit sale of a manufactured home and a direct loan used to finance the purchase of a manufactured home.

(2) A manufactured home financing transaction may provide for a fixed rate of interest payable in substantially equal successive installments over a fixed term, or may provide that the rate of interest may be adjusted at certain regular intervals. In this latter event, the manufactured home financing transaction shall be subject to the provisions in this section.

(3) Adjustments in the interest rate charged must be based on changes in a specific index, as set forth in the financing agreement. The index may be only:

(a) The monthly average yield on United States treasury securities adjusted to a constant maturity of five (5) years; or

(b) An index approved by the federal home loan bank board or by the office of the comptroller of the currency, department of the treasury, for adjustable or variable interest rates on residential mortgage loans.

(4) The rate of interest shall not increase or decrease during the six-month period beginning with the date of execution of the financing agreement, and at least six (6) months shall elapse between changes.

(5) Adjustments, either up or down, to the rate of interest on each adjustment date shall, for the initial adjustment, be equal to the difference between the index value in effect on the first day of the second calendar month preceding the adjustment date and the value in effect on the first day of the month in which the financing agreement is executed. For adjustments after the initial adjustment, adjustments shall be equal to the difference between the index value in effect on the first day of the second month preceding the adjustment date and the index value in effect on the first day of the second month preceding the date of the immediately preceding rate adjustment.

(6) Where the stated regular interval between rate adjustments is six (6) months, an adjustment to the interest rate may not result in a rate of interest which is more than one (1) percentage point greater or less than the interest rate in effect prior to such adjustment. If the stated regular interval between rate adjustments exceeds six (6) months, then the maximum adjustment either up or down shall be one (1) percentage point

multiplied by the number of whole consecutive six (6) month periods in the interval between rate adjustments.

(7) Any increase in the rate of interest permitted by this section shall be optional with the creditor. Decreases in the rate of interest shall be mandatory whenever the total decrease in the index value equals or exceeds one-quarter (1/4) of one (1) percentage point.

(8) If the creditor agrees to impose limitations on interest rate changes that are more restrictive than the limitations specified in this section, then such limitations shall apply to both increases and decreases.

(9) Any changes in the index which are not reflected in a rate adjustment may, by agreement of the parties, be carried over to subsequent rate adjustment periods, and be implemented to the extent not offset by opposite movement in the index.

(10) By agreement of the parties, adjustments to the rate of interest may result in changes in the amount of regular installment payments due under the financing agreement, or in changes in the term of the financing agreement, or in a combination of such changes in amount and term. Adjustments to the amount of installment payments may be made less frequently than adjustments to the interest rate.

(11) For all manufactured home financing transactions under this section, the creditor shall comply with all applicable requirements and disclosures pursuant to Part I of the Consumer Protection Act (Truth-In-Lending Act) 15 USC sec. 1601, et. seq., as amended, and as implemented by Regulation Z promulgated by the board of governors of the federal reserve system.

(12) The creditor shall send written notification of any rate adjustment, by first class mail, postage prepaid, at least one (1) month before the date that the new rate of interest shall take effect.

(13) Notwithstanding any of the requirements and limitations set forth by subsections (3) through (12) of this section, the parties may agree on any terms or provisions in the manufactured housing financing agreement as may be authorized or permitted in any program for residential mortgage loans by the federal home loan bank board or by the office of the comptroller of the currency, department of the treasury, or any other federal department, agency or board. In such event, the creditor shall comply with all applicable limitations, requirements and disclosures of the agency that relate thereto.

The Committee Amendment No. 1 to **HB 494** is as follows:

Amend printed copy of **HB 494** on page 2, line 3, after the word "in" by inserting "*two (2)*"

On page 2, line 3, by placing brackets around and striking through "one (1)"

The Committee on Cities reported **HB 4**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to the finance and revenue of cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

(2) Any license fee or tax imposed by such a city or urban-county government upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city or urban-county government, less all premiums returned to policyholders. A fire insurance company entering a city or urban-county government during a license year shall, at the end thereof, promptly pay to such city or urban-county government the full additional tax due on such percentage basis.

(3) Any license fee or tax imposed by such a city or urban-county government upon *policies of life insurance, as defined in KRS 304.5-020, sold by* a life insurance company may be based upon premiums received, and if so based, shall be applied to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city or urban-county government.

(4) Any license fee or tax imposed by such a city or urban-county government upon any insurance company *or any policies* other than those specified in subsections (2) and (3) of the section shall be based upon a percentage of the premiums received by such company within the preceding calendar year on risks located within the corporate limits of the city or urban-county government on those classes of business which such

company is authorized to transact, less all premiums returned to policyholders; provided, however, that any license fee or tax imposed upon premium receipts on a percentage basis shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the worker's compensation act, *or premiums received on policies of health insurance, as defined by KRS 304.5-040, other than policies of disability income insurance or accidental death and dismemberment insurance.*

(5) The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than *five percent (5%)* [~~thirty percent (30%)~~] of the fee or tax collected and remitted to the city or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsection (1), (2), (3) or (4) of this section, together with the collection fee herein may be rounded off to the nearest dollar amount.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(7) Upon written request of the legislative body of any city or urban-county government, at the expense of the requesting city or urban-county government, which shall be paid in advance by such city or urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2), (3) and (4) of this section shall be due *as follows:*

(a) If collections are less than one thousand dollars ($1,000) per month, they shall be remitted on a quarterly basis with the first payment due on or before April 15, the second payment due on or before July 15, the third payment due on or before October 15, and the fourth payment due on or before January 15;

(b) If collections are more than one thousand dollars ($1,000) per month, they shall be remitted on or before the last day of each month of the tax year;

(c) [~~at the beginning of the tax year.~~] The city or urban-county government may collect a fee of five dollars ($5) from any company whose fee or tax on the percentage of premium basis is less than five dollars ($5.00) *in any tax year. Such fee shall be due on or before December 15;*

(d) Any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid.

The Committee Substitute to **HB 4** is as follows:

HB 4, AN ACT relating to the finance and revenue of cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance *may enact or change its license fee or rate of tax to be effective January 1 or July 1 of each year on a prospective basis only and* shall file with the commissioner of insurance *at least sixty (60) days prior to the effective date,* a copy of all ordinances and amendments thereto which impose any such license fee or tax. *The commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities or urban-county governments which have elected to impose such license fees or taxes and the current amount of such license fee or rate of tax.*

(2) [~~Any license fee or tax imposed by such a city or urban-county government upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city or urban-county government, less all premiums returned to policyholders. A fire insurance company entering a city or urban-county government during a license year shall, at the end thereof, promptly pay to such city or urban-county government the full additional tax due on such percentage basis.~~

~~(3)~~] Any license fee or tax imposed by such a city or urban-county government upon *an* [~~a life~~]

insurance company *with respect to life insurance policies,* may be based upon *the first year's* premiums [~~received~~], and if so based, shall be applied to *the amount of such* premiums *actually collected within each calendar quarter* [~~from new policies written within the preceding calendar year~~] upon the lives of persons residing within the corporate limits of such city or urban-county government.

(3)[~~(4)~~] Any license fee or tax imposed by such a city or urban-county government upon any insurance company *with respect to any policy which is not a life insurance policy* [~~other than those specified in subsections (2) and (3) of the section~~] shall be based upon [~~a percentage of~~] the premiums *actually collected* [~~received~~] by such company within *each* [~~the preceding~~] calendar *quarter* [~~year~~] on risks located within the corporate limits of the city or urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; [~~provided,~~] however, [~~that~~] any license fee or tax imposed upon premium receipts [~~on a percentage basis~~] shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the worker's compensation act.

(4)[~~(5)~~] The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than *five percent (5%)* [~~thirty percent (30%)~~] of the fee or tax collected and remitted to the city or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. *The insurance agent shall receive his normal or regular commission on the premiums and upon fees or taxes adopted pursuant to this section.* To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsection (1), (2), *or* (3) [~~or (4)~~] of this section, together with the collection fee herein may be rounded off to the nearest dollar amount.

(5)[~~(6)~~] Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(6)[~~(7)~~] Upon written request of the legislative body of any city or urban-county government, at the expense of the requesting city or urban-county government, which shall be paid in advance by such city or urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(7)[~~(8)~~] The license fees or taxes provided for by subsections (2), *and* (3) [~~and (4)~~] of this section shall be due *thirty (30) days after the end of each calendar quarter. At the time of the quarterly payment due at the end of each calendar year each insurer shall furnish each city or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:*

(a) Casualty;
(b) Automobile;
(c) Inland marine;
(d) Fire and allied perils;
(e) Health; and
(f) Life

[~~at the beginning of the tax year. The city or urban-county government may collect a fee of five dollars ($5) from any company whose fee or tax on the percentage of premium basis is less than five dollars ($5.00)~~].

(8) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city or urban-county government is separate of penalties provided for in subsection (6) of this section. No city or urban-county government may impose any penalties other than those provided for in this subsection.

Section 2. The effective date of this Act shall be January 1, 1985.

The Committee on Education reported **HB 320,** with Committee Substitute attached thereto, and **HB 523,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 320, AN ACT relating to the school month and day.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.060 is amended to read as follows:

Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the state board *of* [~~for elementary and secondary~~] education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as school days. No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the state board *of* [~~for elementary and secondary~~] education. *For each six (6) hours of classroom teaching per day, each teacher must be provided with a planning period of not less than thirty (30) minutes. The planning period shall not be scheduled before the beginning or after the end of the normal school day. For purposes of this section, a normal school day shall not begin earlier nor end later than the scheduled working hours in effect for teachers during the 1983-84 school year.* Except for children attending kindergarten, readiness classes, first grade classes, and the handicapped, who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the state board *of* [~~for elementary and secondary~~] education, six (6) hours of actual school work shall constitute a school day. The daily session, including recesses and intermissions, shall not exceed nine (9) hours. A local board of education, with the approval of the state board *of* [~~for elementary and secondary~~] education, may extend the regular school day, when necessary, to make up days missed as a result of emergency, providing that the extended school day shall not exceed nine (9) hours. If a school district has adopted an extended school day before such emergency, the time in excess of the minimum school day may, with the approval of the state board *of* [~~for elementary and secondary~~] education, be used to make up days missed as a result of emergency.

The Committee Substitute to **HB 320** is as follows:

HB 320, AN ACT relating to the school month and day.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.060 is amended to read as follows:

Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the state board *of* [~~for elementary and secondary~~] education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as school days. No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the state board *of* [~~for elementary and secondary~~] education. *For each thirty (30) hours of classroom teaching per week, each teacher must be provided with planning time of not less than one hundred fifty (150) minutes. The planning time shall not be scheduled before the beginning or after the end of the normal school day.* Except for children attending kindergarten, readiness classes, first grade classes, and the handicapped, who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the state board *of* [~~for elementary and secondary~~] education, six (6) hours of actual school work shall constitute a school day. The daily session, including recesses and intermissions, shall not exceed nine (9) hours. A local board of education, with the approval of the state board *of* [~~for elementary and secondary~~] education, may extend the regular school day, when necessary, to make up days missed as a result of emergency, providing that the extended school day shall not exceed nine (9) hours. If a school district has adopted an extended school day before such emergency, the time in excess of the minimum school day may, with the approval of the state board *of* [~~for elementary and secondary~~] education, be used to make up days missed as a result of emergency.

HB 523, AN ACT relating to teachers retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of

disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 49, and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the state department of education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky vocational association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by resolution whether part-time employes of the petitioning association are to be included. The state shall make no contributions on account of such employes, either full-time or part-time. The association shall make the employer's contributions including any overmatch that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470(4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employe contributions pursuant to KRS 161.540*(2)*[~~(4)~~], or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employe contributions*; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for the purpose of calculating the final average salary shall be limited to the lesser of:*

(a) The member's actual salary; or

(b) The member's salary during the prior year, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency.

Such limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and such increase was accompanied by a corresponding change in position..

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members.

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a

member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent (3%) per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employe contributions as described in KRS 161.540*(2)*[~~(4)~~], plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year, or for whom picked up employe contributions are currently being made or for whom such contributions were made in the next preceding fiscal year.

(21) "Regular teacher, supervisor, or administrator", when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.540 is amended to read as follows:

(1) [~~Effective July 1, 1979, each member shall contribute to the retirement system seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.~~

~~(2) Effective January 1, 1984,~~] Each member shall contribute to the retirement system nine and thirty-two hundredths percent (9 32/100%) of annual compensation except that university faculty members shall contribute seven and eighty-four hundredths percent (7 84/100%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. *When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance.*

(2)[~~(3)~~] Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 3. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the teachers' retirement system may receive credit for active service rendered in the armed forces of the United States subject to regulations established by the board of trustees. Such service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of such service may be credited but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on such service, may not receive credit for any such service in the teachers' retirement system. This subsection shall apply to service presented for credit on July 1, 1975, and thereafter.

(3) A member receiving retirement credit for active duty in the armed services of the United States

shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Such contributions shall not be picked up, as described in KRS 161.540*(2)*[~~(4)~~]. In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting such service.

Section 4. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2)(a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year, subsequent to the latest out-of-state service, may present for credit, service rendered out-of-state, not to exceed eight (8) such years actually taught as a certified or licensed teacher, provided such member pays to the retirement system an amount equal to the current member contribution to the retirement system based on the first Kentucky salary of the member subsequent to the out-of-state service and in addition thereto interest at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. Such payments shall not be picked up as described in KRS 161.540*(2)*[~~(4)~~]. For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. Such credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661 except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the teachers' retirement system of the state of Kentucky may present such service for credit in the retirement system on the same basis as provided above for out-of-state service credit, however, no such service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by such public institution or governmental agency. Such service when added to service credited under subsection (2)(a) of this section shall not exceed a total of eight (8) years service credit.

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use such service for meeting the requirements of KRS 161.600(1)(b) by making an additional contribution to the state accumulation fund equal to the regular member contributions for each year so used. Such payments shall not be picked up as described in KRS 161.540*(2)*[~~(4)~~]. The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the teachers' retirement system for the first time, July 1, 1976, and thereafter, shall not receive credit for service defined in subsections (2)(a) and (2)(c) above in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or eight (8) years, whichever is the lesser number.

Section 5. KRS 161.545 is amended to read as follows:

Members may make contributions and receive service credit for substitute, part-time or any service other than regular full time teaching as provided in the rules and regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in rules and regulations adopted by the board of trustees. Contributions permitted after August 1, 1982 shall be picked up pursuant to KRS 161.540*(2)*[~~(4)~~].

Section 6. KRS 161.560 is amended to read as follows:

Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period the agency shall forward all amounts so deducted to the teachers' retirement system. The retirement system shall charge the employing agency interest at an annual rate not to exceed twelve percent (12%) for deductions not remitted within the specified fifteen (15) days. Such payroll reports, contributions lists, and other data as may be required by regulation of the board of trustees shall be submitted. The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member. After August 1, 1982, employe contributions shall be picked up by the agency pursuant to KRS 161.540*(2)*[~~(4)~~].

Section 7. KRS 161.565 is amended to read as follows:

Notwithstanding any other provisions of KRS Chapter 161, the contribution of university faculty members may be reduced by amounts up to two and two hundred fifteen thousandths percent (2 215/1000%) if amounts sufficient to replace the reduction are authorized and contributed to the teachers' retirement system by the board of regents of the employing university. After August 1, 1982, any contribution by a university faculty member shall be picked up by the employing university pursuant to KRS 161.540*(2)*[~~(4)~~].

Section 8. KRS 161.595 is amended to read as follows:

(1) Upon service retirement, a member of the teachers' retirement system may obtain credit for all or any part of the service otherwise creditable under the Kentucky employes' retirement system, the county employes' retirement system, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the teachers' retirement system by virtue of such additional service credit. Such payments shall not be picked up, as described in KRS 161.540*(2)*[~~(4)~~].

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

Section 9. KRS 161.705 is amended to read as follows:

Any member of the teachers' retirement system, or the employer of member, or both, may make voluntary contributions of four percent (4%) or more of the member's annual compensation to the retirement system for the benefit of the member. Such contributions shall not be picked up, as described in KRS 161.540*(2)*[~~(4)~~]. Such contributions shall be invested as provided in KRS 161.430. Separate member accounts shall be maintained for voluntary contributions under rules and regulations enacted by the board of trustees.

The Committee Amendment No. 1 to **HB 523** is as follows:

Amend printed copy of **HB 523** on page 4, line 18, by inserting the following after the word "*for*":

"*each of those three (3) years for*"

Page 4, line 22, by inserting the word "*annual*" after the word "*member's*" and by inserting "*that was used for retirement purposes*" after the word "*salary*"; and by inserting "*each of*" after the word "*during*"; and by deleting the word "*year*" and inserting "*three (3) years*" in lieu thereof.

Page 4, line 25, by changing the semi-colon to a period and inserting: "*The increase shall be computed on the salary that was used for retirement purposes.*"

Page 5, line 3, by inserting the following after the word "*position*":

"*or in length of employment*"

The Committee on Energy reported **HB 537, HB 555, HB 561, HB 588,** with Committee Substitute attached thereto, and **SB 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 537, AN ACT relating to municipal utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.324 is amended to read as follows:

(1) All other provisions of this chapter to the contrary notwithstanding public utilities operating under the jurisdiction of the energy regulatory commission and utility regulatory commission or the *department* [~~bureau~~] of vehicle regulation or federal power commission, *any municipally owned electric, gas, water or sewer system,* and common carriers by rail shall not be required to receive the approval of the planning unit for the location or relocation of any of their service facilities. Service facilities include all facilities of such utilities and common carriers by rail other than office space, garage space, and warehouse space and include office space, garage space, and warehouse space when such space is incidental to a service facility. The energy regulatory commission and utility regulatory commission and the *department* [~~bureau~~] of vehicle regulation shall give notice to the planning commission of any planning unit of any hearing which effects locations or relocations of service facilities within that planning unit's jurisdiction.

(2) The nonservice facilities excluded in subsection (1) of this section must be in accordance with the zoning regulations.

(3) Upon the request of the planning commission, the public utilities referred to in this section shall provide the planning commission of the planning unit affected with information concerning service facilities which have been located on and relocated on private property.

(4) All proposals for acquisitions or disposition of land for public facilities, or changes in the character, location or extent of structures or land for public facilities, excluding state and federal highways and public utilities and common carriers by rail mentioned in this section, shall be referred to the commission to review it in the light of its agreement with the comprehensive plan, and the commission shall, within sixty (60) days from the date of its receipt, review the project and advise the referring body whether the project is in accordance with the comprehensive plan, and whether it approves or disapproves of the project. If it disapproves of the project, it shall state the reasons for disapproval in writing and make suggestions for changes which will, in its opinion, better accomplish the objectives of the comprehensive plan. A majority of the entire membership of the legislative body may override this disapproval of the commission.

HB 555, AN ACT relating to city utility commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.530 is amended to read as follows:

(1) Any city acquiring or constructing an electric light, heat and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of three (3) commissioners to operate, manage and control the plant, except that a city of the second class shall appoint five (5) commissioners. The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to such plants by KRS 96.520, and by any ordinance enacted under that section (except that in fixing rates the commission in a city of the second or third class shall be governed by the provisions of KRS 96.535 and any ordinance enacted thereunder). The utility commission, when so appointed, shall be and hereby is declared to be a public body politic and corporate, with perpetual succession; and said body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employes needed to operate the plant. In cities of the second or third class providing civil service coverage for city employes the utility commission appointed under this section shall provide such civil service coverage for all of its employes and it shall exercise the powers and functions with respect to such employes which are vested in the city legislative body with respect to the city employes by KRS 90.380. Employes who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employes under civil service coverage shall not be required to stand a civil service examination and they shall be eligible for all the benefits provided by such civil service coverage. Out of the revenue of the plant it shall pay operating expenses, repairs and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to such plants by KRS 96.520 (except that the commission in a city of the second or third class shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted thereunder). Notwithstanding the foregoing provisions the utility commission, for the purpose stated in subsection (1) of KRS 96.520, may enter into an agreement for the operation of any of its plants or other facilities.

(2) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor or a member of a city legislative body. The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative body. No officer or employe of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of said commission or to be employed by the commission in any capacity. The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. If at any time during his term of office any member of the commission becomes a candidate for or is elected or appointed to any public office he shall automatically vacate his membership on the commission and another person shall be appointed in his place.

(3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and each commissioner shall execute bond to be approved by the city legislative body.

(4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed*:*

(a) One thousand two hundred dollars ($1,200) per annum*, if the city does not own or operate electric generation facilities; or*

(b) One thousand eight hundred dollars ($1,800) per annum, if the city owns or operates electric generation facilities.

(5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. On a commission with five (5) members, not more than two (2) members shall hold concurrent terms of office.

HB 561, AN ACT relating to electric utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.600 is amended to read as follows:

(1) When the board of any municipality authorized to acquire, construct, own or operate an electric plant under the provisions of KRS 96.550 to 96.900 shall be unable to contract with the owner of any land, easement, right of way, electric plant, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall proceed to condemn the property pursuant to the Eminent Domain Act of Kentucky except that, in lieu of determining the award to the owners in the manner prescribed in KRS 416.580(1) the commissioners shall ascertain and determine the value of the property taken; the value of real estate, tangible personal property, intangible property and franchises, if any such value is found to exist, shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the electric plant or system of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. The jury award shall be made in this manner rather than in the manner prescribed in KRS 416.660(1).

(2) Notwithstanding the provisions of subsection (1) of this section, when the owner of any land, easement, right of way or facility to be acquired by exercise of the right of eminent domain is not a utility, the award to the owners thereof shall be determined pursuant to the Eminent Domain Act of Kentucky.

HB 588, AN ACT relating to electric and gas utility service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Any utility which supplies both gas and electric service to a customer shall render separate bills for each service, and shall not terminate electric service for nonpayment of gas bills, nor gas service for nonpayment of electric bills.

The Committee Substitute to **HB 588** is as follows:

HB 588, AN ACT relating to electric and gas utility service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Any utility which supplies both gas and electric service to a customer shall maintain separate accounts for each service, shall clearly identify the total charges for each service on any joint billing, and shall not terminate electric service for failure to pay on a gas account, nor gas service for failure to pay on an electric account.

SB 14, AN ACT relating to management and operation audits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall provide for periodic management and operation audits of each utility with annual intra-Kentucky assessable revenue as of December 31, 1983 under KRS 278.150(1) not less than one hundred million dollars ($100,000,000) to investigate management effectiveness and operating efficiency. The commission shall complete or provide for a full and comprehensive audit of each such utility prior to January 1, 1990. After the initial audit of any utility, the commission may order a subsequent audit of that utility focusing on issues disclosed by the initial audit. A full and comprehensive audit of any utility initiated prior to the effective date of this Act may be deemed to satisfy the requirements of this subsection if the audit was required and directed by the commission and completed after July 1, 1983.

(2) The commission may provide for management or operations audits, or both, of any utility under its jurisdiction on a regular or irregular schedule to investigate all or any portion of the management and operating procedures or any other internal workings of the utility.

(3) Audits provided under this section may, at the discretion of the commission, be performed by the commission staff or by a competent, qualified and independent firm. When the commission orders an audit to be performed by an independent firm, the commission shall select the audit firm, which shall work for and under the direction of the commission, with the cost to be borne by the utility. The commission shall include the cost of conducting any audits required in this section in the cost of service of the utility for ratemaking purposes.

(4) The commission shall adopt rules and regulations setting forth the scope and application of audits, and procedures for the conduct of management and operations audits. The audit procedures shall provide the utility being audited the opportunity to comment at various stages of the audit, including an opportunity to comment on the initial work plan and the opportunity to review and comment on preliminary audit drafts prior to issuance of a final document. The results of all audits shall be filed with the commission and shall be open to public inspection.

Section 2. The public service commission shall initiate a full and complete management audit of the management effectiveness and efficiency of the commission. The audit shall be performed by a competent, qualified and independent firm selected by the auditor of public accounts. Such audit shall be monitored by the legislative program review and investigations committee, and the results of the audit shall be reported to the 1986 General Assembly.

The Committee on Judiciary-Criminal reported **HB 556**, **HB 384** with Committee Amendment attached thereto, and **HB 500** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 556, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 533.060 is amended to read as follows:

(1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony and the commission of such offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, such person shall not be eligible for probation, shock probation or conditional discharge.

(2) When a person has been convicted of a felony and is committed to a correctional facility maintained by the [~~bureau of~~] corrections *cabinet* and released on parole or has been released by the court on probation, shock probation, or conditional discharge, and is convicted or enters a plea of guilty to a felony committed while on parole, probation, shock probation, or conditional discharge, such person shall not be eligible for probation, shock probation, or conditional discharge and the period of confinement for that felony shall not run concurrently with any other sentence.

(3) When a person commits an offense while awaiting trial for another offense, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which said person is awaiting trial.

(4) When a person has been convicted of or has entered a plea of guilty to an offense classified as a felony and a victim of the offense was sixty (60) years of age or over, such person shall not be eligible for probation, shock probation, or conditional discharge.

SECTION 2. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

When a person has been convicted of or has entered a plea of guilty to an offense classified as a felony *and the victim of the offense was sixty (60) years of age or over, such person shall not be eligible for parole until he has served one-third (1/3) of the sentence imposed for the offense.*

HB 384, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.170 is amended to read as follows:

(1) If, prior to an adjudicatory hearing in the juvenile session of district court, it appears to the court that there is reasonable cause to believe that a child before the court has committed a felony, and at the time of commission of the offense the child was *fourteen (14)* [~~sixteen (16)~~] years of age or older, or was less than *fourteen (14)* [~~sixteen (16)~~] years of age but the offense was a class A felony or a capital offense, and the court is of the opinion that the child be tried and disposed of under the regular law governing crimes, the court shall conduct a separate hearing to determine if the case should be transferred to the circuit court of the county in which the offense was committed. No child shall be considered a felon for any purpose until transferred to, tried and convicted of a felony by a circuit court.

(2) The hearing held to consider the transfer of a juvenile to the circuit court shall determine if there is probable cause to believe that an offense was committed and that the child committed the offense.

(3) If the court determines that probable cause exists, it shall then determine if it is in the best interest of the child and the community to order such a transfer based upon the seriousness of the alleged offense; whether the offense was against person or property, with greater weight being given to offenses against persons; the maturity of the child as determined by his environment; the child's prior record; and the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child by the use of procedures, services, and facilities currently available to the juvenile justice system.

(4) If, following completion of the transfer hearing, the court is of the opinion that the best interest of the child and of the public would be protected by such transfer, the order of transfer shall state the reason for such transfer.

(5) When the juvenile session of district court so transfers a case to the circuit court:

(a) If a grand jury considers the case and is satisfied there is sufficient evidence to indict the child, it shall be instructed that it may either return an indictment or may return a written report to the circuit court recommending that the child be transferred to the juvenile session of district court. If the court believes that such transfer would be proper, it may order the child transferred to the juvenile session of district court.

(b) If an indictment is returned, the court may in its discretion order the case transferred to the juvenile session of district court.

(c) If an indictment is returned and the court does not transfer the case to juvenile session of district court, the child shall be tried as any other defendant.

(d) While under the jurisdiction of the circuit court, the child shall be subject to bail the same as an adult.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61.872 TO 61.884 IS CREATED TO READ AS FOLLOWS:

(1) Records of the juvenile session of district court, district court, or the circuit court relating specifically to the fact of conviction or of an adjudication as a delinquent of a child before the court of an offense which would be a felony, misdemeanor, or violation if said child had been an adult, or to the finding of delinquency in such a case, together with the sentence and the name and address of the child's parents or guardians shall be deemed a public record and shall be freely available in the office of the circuit clerk and there shall be no restriction upon any form of publication of such records. This section shall not apply to a case where the child is under fourteen (14) years of age.

(2) No statute dealing with privacy of proceeding in the juvenile session of district court nor to police records relating thereto shall be construed as not to permit the production and dissemination of the records stated above.

The Committee Amendment No. 1 to **HB 384** is as follows:

Amend printed copy of **HB 384,** on page 3, line 19, following the word "*felony*" to delete "*, misdemeanor, or violation*"

HB 500, AN ACT relating to grand jury transcripts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

Grand jury transcripts shall consist of a verbatim record of all proceedings before the grand jury and shall include:

(1) All testimony before the body;
(2) All questions asked by attorneys for the Commonwealth;
(3) All questions asked by members of the grand jury;
(4) All comments made by the attorneys for the Commonwealth; and
(5) All actions taken by the grand jury.

The Committee Amendment No. 1 to **HB 500** is as follows:

Amend printed copy of **HB 500,** on page 1, lines 9 and 10, to delete the same and on page 1, line 11, to delete "*(4)*" and to insert in lieu thereof "*(3)*"

and on page 1, line 13, to delete "*(5)*" and to insert in lieu thereof "*(4)*"

The Committee on State Government reported **HB 334,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 334, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

Subject to limitations in applicable statutes, any administrative body which is empowered to issue administrative regulations shall, by administrative regulation prescribe, consistent with applicable statutes:

(1) The process for application for license, benefits available or other matters for which an application would be appropriate unless such process is prescribed by a statute;

(2) Fees to be charged by the administrative body if such fees are authorized by law and are not set by statute;

(3) The procedures to be utilized by the administrative body in the conduct of hearings by or for the administrative body unless such procedures are prescribed by a statute; and

(4) The disciplinary procedures within the jurisdiction of the administrative body unless such procedures are prescribed by statute.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

Subject to limitations in applicable statutes, any administrative body which is empowered to issue administrative regulations may, consistent with applicable statutes, prescribe forms for use by the administrative body and for the public in dealing with the administrative body unless the content of such form is prescribed by a statute.

SECTION 3. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) An administrative body shall not issue administrative regulations:
(a) When a statute prohibits the administrative body from issuing regulations;
(b) When the administrative body is not authorized by statute to issue regulations;
(c) When a statute prohibits the administrative body from regulation of that particular matter;
(d) When the administrative body is not authorized by statute to regulate that particular matter;
(e) When a statute prescribes the same or similar procedure for the matter regulated;
(f) When a statute sets forth a comprehensive scheme of regulation of the particular matter;
(g) On any matter which is not clearly within the jurisdiction of the administrative body;
(h) On any matter which is beyond the statutory authorization of the administrative body to issue regulations or which is not clearly authorized by statute; and
(i) Which modify or vitiate a statute or its intent.
(2) Any regulation in violation of this section or the spirit thereof is null, void, and unenforceable.

SECTION 4. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

(1) An administrative body shall not by internal policy, memorandum, or other form of action:

(a) Modify a statute or regulation;

(b) Expand upon or limit a statute or regulation; and

(c) Deal in any manner with a right guaranteed by the Constitution of the United States, the Constitution of Kentucky, a statute, or a regulation.

(2) Any administrative body memorandum, internal policy, or other form of action violative of this section or the spirit thereof is null, void, and unenforceable.

(3) This section shall not be construed to prohibit an administrative body issuing an opinion or administrative decision which is authorized by statute.

SECTION 5. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

When an administrative regulation is challenged in the courts it shall be the duty of the promulgating administrative body to show and bear the burden of proof to show:

(1) That the administrative body possessed the authority to issue the regulation;

(2) That the regulation is consistent with any statute authorizing or controlling its issuance;

(3) That the regulation is not in excess of statutory authority;

(4) That the regulation is not beyond the scope or intent of statutory authority;

(5) That the regulation is not violative of any other statute; and

(6) That the laws and regulations relating to promulgation of administrative regulations were faithfully followed.

SECTION 6. A NEW SECTION OF KRS CHAPTER 13 IS CREATED TO READ AS FOLLOWS:

When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the administrative regulations review subcommittee, the legislative research commission, an interim committee, or a standing committee of the general assembly nothing in KRS Chapter 13 shall be construed to require its resubmission or refiling or other action. The regulation may be filed as amended. Subsequent to its filing it shall be published in the administrative register.

Section 7. KRS 13.087 is amended to read as follows:

(1) There is hereby created a permanent subcommittee of the legislative research commission to be known as the administrative regulation review subcommittee. The subcommittee shall be composed of seven (7) members, no more than five (5) of whom shall be members of the same political party. The legislative research commission shall appoint from the membership of the general assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the legislative research commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) Prior to filing, all regulations shall be submitted by the legislative research commission to one of its subcommittees to determine if the regulation conforms to the statutory authority under which it was promulgated and if it carries out the legislative intent of the statutory authority under which it was promulgated. The subcommittee's finding that a regulation does or does not conform to the statutory authority or carry out the legislative intent shall be reported to the legislative research commission. If the legislative research commission finds that a regulation conforms to statutory authority and carries out the legislative intent, the commission shall accept the regulation. In the event the commission determines that a regulation, other than an emergency filing approved by the governor, does not conform to the statutory authority, or does not coincide with the legislative intent, the commission shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and shall return the regulation to the promulgating administrative body. Notice of such objection shall be given to the director of the legislative research commission. The commission shall act on a regulation submitted to the legislative research commission within forty (40) days of date of publication of the regulation in the Administrative Register, except as provided in subsection (3) of KRS 13.085.

(5) The promulgating administrative body may revise a regulation to comply with the commission's objections, and may return the revised regulation to the commission, or it may return the regulation within thirty (30) days of the commission's objection, with the commission's notation attached, without change. The commission shall act upon a revised regulation in the manner prescribed by subsection (4) of this section. The legislative research commission staff shall immediately accept a revised regulation as filed if it is not objected to by the commission.

(6) If the general assembly is in regular session when an administrative body returns a regulation,

objected to by the commission, without change, the regulation shall be laid before the house of representatives and senate in accordance with *subsections* [~~subsection~~] (8) *and (10)* of this section.

(7) The subcommittee shall report monthly to the legislative research commission all action taken on administrative bodies' regulations. The director of the legislative research commission shall report to the commission all action taken by the interim committee.

(8) All proposed regulations not accepted by the commission or one of its subcommittees together with the notations of the commission's objection shall be transmitted by the director to the clerk of the senate and the clerk of the house of representatives at the then-current or next succeeding regular session of the general assembly. The clerk of the senate and the clerk of the house of representatives shall lay all regulations so transmitted before the senate and the house of representatives, respectively *which may approve, disapprove, or amend the regulation*, provided that in no case shall a regulation be laid before the general assembly within ten (10) legislative days of sine die adjournment unless so ordered by the general assembly. Proposed regulations not accepted by the commission that have been properly laid before the general assembly shall become effective upon sine die adjournment of the general assembly unless the general assembly in regular session shall disapprove the proposed regulation.

(9) Notwithstanding any other provision of this section or KRS 13.085, the general assembly may, during regular sessions and by concurrent resolution:

(a) Require any proposed regulation or proposed revised regulation that has been submitted to the legislative research commission, whether or not the commission has acted on such regulation, to be laid before the general assembly, whereupon subsection (8) of this section shall apply to the regulation; or

(b) Require any regulation then in effect to be laid before the general assembly and may declare the regulation void by enacting a [~~bill or~~] joint resolution voiding the regulation.

(10) All actions disapproving a regulation or amending a regulation which are taken by the general assembly shall be done by joint resolution.

The Committee Substitute to **HB 334** is as follows:

HB 334, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 13A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the general assembly and the court of justice, authorized by law to promulgate administrative regulations.

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization procedure, or practice requirements of any administrative body. The term includes the amendment or repeal of a prior administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with Section 13 of this Act; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions of higher education pertaining to students attending or applicants to such institutions or to the control and maintenance of land and buildings occupied by the respective institutions.

(3) "Adopted" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has become effective in accordance with the provisions of this Act.

(4) "Commission" means the legislative research commission.

(5) "Filed" means that a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency administrative regulation has been submitted to the commission in accordance with this Act.

(6) "Regulatory impact analysis" means a written statement containing the provisions required by Section 24 of this Act.

(7) "Statement of consideration" means that an administrative body must either accept suggestions

or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation.

(8) “Subcommittee” includes the administrative regulation review subcommittee, any other subcommittee of the legislative research commission, or a standing committee of the general assembly.

(9) “Tiering” means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a permanent subcommittee of the legislative research commission to be known as the administrative regulation review subcommittee. The subcommittee shall be composed of seven (7) members, no more than five (5) of whom shall be members of the same political party. The legislative research commission shall appoint from the membership of the general assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the legislative research commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

SECTION 3. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The administrative regulation review subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of proposed administrative regulations, review of existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies.

(b) Review and comment upon administrative regulations submitted to it by the commission.

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them.

(d) Conduct such other studies relating to administrative regulations as may be assigned by the commission.

(2) The subcommittee may make a nonbinding determination that:

(a) A proposed administrative regulation, proposed amendment to an administrative regulation, emergency administrative regulation, or existing administrative regulation:

1. Is wrongfully promulgated;
2. Appears to be in conflict with an existing statute;
3. Appears to have no statutory authority for its promulgation;
4. Is in excess of the administrative body's authority; or
5. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute;

(c) That an existing administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit such data and information as required by the subcommittee in the performance of its duties under this Act and no administrative body shall fail to provide the information or data required.

SECTION 4. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

The director of the legislative research commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of proposed administrative regulations, proposed amendment to existing administrative regulations, proposed repeal of existing administrative regulations, emergency administrative regulations, and regulatory impact analysis for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Prepare the Kentucky administrative regulations service;

(7) Make certifications required by this Act; and

(8) Perform such other duties as required by the commission or by a subcommittee.

SECTION 5. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The legislative research commission shall compile, publish and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky administrative

regulations service and shall constitute the official state publication of administrative regulations.

(2) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the legislative research commission for the purpose of giving notice of proposed administrative regulations filed in accordance with this Act. Every administrative regulation forwarded to the legislative research commission shall have its complete text printed in the administrative register along with the accompanying statements required by Sections 19, 21, 22, 23, 24 and 25 of this Act.

(3) The administrative register shall be published the first day of each month and shall include all proposed administrative regulations received by the legislative research commission by 12:00 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the working day which immediately precedes the Saturday, Sunday, or holiday.

(4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky administrative regulations service with the original certificate therein shall be maintained in the office of the secretary of state. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.

(5) The commission shall prescribe reasonable fees for subscription to the Kentucky administrative regulations service and the administrative register. All fees paid to the commission for these publications shall be placed in the state treasury to the credit of a revolving, trust or agency fund account, for use by the legislative research commission in carrying out the provisions of this section.

(6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the legislative research commission. The commission may prescribe reasonable fees for duplication services and all fees paid to the commission for duplication services shall be placed in the state treasury to the credit of a revolving trust or agency fund account, for use by the legislative research commission in carrying out the provisions of this subsection.

SECTION 6. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) No administrative body other than the legislative research commission shall publish administrative regulations unless permission is granted by the legislative research commission and the administrative regulations are enclosed in a booklet or binder on which the words "informational copy" are clearly stamped or printed.

(2) Copies of the administrative register and the Kentucky administrative regulations service shall be provided to a member of the general assembly only upon the request of the member.

SECTION 7. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The commission shall promulgate administrative regulations governing the manner and form in which administrative regulations shall be prepared, to the end that all administrative regulations shall be prepared in a uniform manner. The compiler shall refuse to accept for filing any administrative regulation that does not conform to this Act and the administrative regulations issued thereunder.

(2) The commission shall furnish advice and assistance to all administrative bodies in the preparation of their administrative regulations, and in revising, codifying, and editing existing or new administrative regulations.

SECTION 8. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

Each issue of the administrative register shall contain a notice describing the regulation review process and the methods by which the public may comment upon proposed regulations, including the procedure for contacting agencies about public hearings.

SECTION 9. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The commission's authenticated file stamp upon an administrative regulation or publication of an administrative regulation in the Kentucky administrative regulations service or other publication shall raise a rebuttable presumption that the contents of the administrative regulation are correct.

(2) The courts shall take judicial notice of any administrative regulation duly filed under the provisions of KRS Chapter 13A after the administrative regulation has been adopted.

SECTION 10. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

Subject to limitations in applicable statutes, any administrative body which is empowered to promulgate administrative regulations shall, by administrative regulation prescribe, consistent with applicable statutes:

(1) The process for application for license, benefits available or other matters for which an application would be appropriate unless such process is prescribed by a statute;

(2) Fees to be charged by the administrative body if such fees are authorized by law and are not set by statute;

(3) The procedures to be utilized by the administrative body in the conduct of hearings by or for the administrative body unless such procedures are prescribed by a statute; and

(4) The disciplinary procedures within the jurisdiction of the administrative body unless such procedures are prescribed by statute.

SECTION 11. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

Subject to limitations in applicable statutes, any administrative body which is empowered to promulgate administrative regulations may, consistent with applicable statutes, prescribe forms for use by the administrative body and for the public in dealing with the administrative body unless the content of such form is prescribed by a statute.

SECTION 12. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) An administrative body shall not promulgate administrative regulations:

(a) When a statute prohibits the administrative body from promulgating administrative regulations;

(b) When the administrative body is not authorized by statute to promulgate administrative regulations;

(c) When a statute prohibits the administrative body from regulation of that particular matter;

(d) When the administrative body is not authorized by statute to regulate that particular matter;

(e) When a statute prescribes the same or similar procedure for the matter regulated;

(f) When a statute sets forth a comprehensive scheme of regulation of the particular matter;

(g) On any matter which is not clearly within the jurisdiction of the administrative body;

(h) On any matter which is beyond the statutory authorization of the administrative body to promulgate administrative regulations or which is not clearly authorized by statute; and

(i) Which modify or vitiate a statute or its intent.

(2) Any administrative regulation in violation of this section or the spirit thereof is null, void, and unenforceable.

(3) No administrative body, other than the court of justice shall issue rules.

(4) No administrative body shall issue standards or other by any other name issue a document of any type where an administrative regulation is required or authorized by law.

SECTION 13. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) An administrative body shall not by internal policy, memorandum, or other form of action:

(a) Modify a statute or administrative regulation;

(b) Expand upon or limit a statute or administrative regulation; and

(c) Expand or limit a right guaranteed by the Constitution of the United States, the Constitution of Kentucky, a statute, or an administrative regulation.

(2) Any administrative body memorandum, internal policy, or other form of action violative of this section or the spirit thereof is null, void, and unenforceable.

(3) This section shall not be construed to prohibit an administrative body issuing an opinion or administrative decision which is authorized by statute.

SECTION 14. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

When an administrative regulation is challenged in the courts it shall be the duty of the promulgating administrative body to show and bear the burden of proof to show:

(1) That the administrative body possessed the authority to promulgate the administrative regulation;

(2) That the administrative regulation is consistent with any statute authorizing or controlling its issuance;

(3) That the administrative regulation is not in excess of statutory authority;

(4) That the administrative regulation is not beyond the scope or intent of statutory authority;

(5) That the administrative regulation is not violative of any other statute; and

(6) That the laws and administrative regulations relating to promulgation of administrative regulations were faithfully followed.

SECTION 15. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

When any section of this Act requires that an action be taken at a specified date with regard to filing of items to the commission they shall be filed on or before 12:00 noon, eastern time, on the specified date.

SECTION 16. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

When a statute requires that a hearing be held before an administrative regulation is filed with the commission the administrative body shall, in addition to the notice required in the statute, notify the administrative regulations compiler not less than forty-five (45) days prior to the date of the hearing of the *time, date, place, and subject of the hearing and the administrative regulations compiler shall place the notice in the administrative register.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

Three (3) methods of promulgating administrative regulations are authorized:

(1) An ordinary administrative regulation;

(2) An emergency administrative regulation; and

(3) An administrative regulation in contemplation of a statute.

SECTION 18. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

An ordinary administrative regulation is one that is promulgated in the normal manner by an administrative body which does not require that it be placed in effect immediately.

SECTION 19. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) An emergency administrative regulation is one that due to the exigencies of the situation must be placed into effect immediately, and

(a) Is temporary in nature and will expire as provided herein; or

(b) Is temporary in nature and will be replaced by an ordinary administrative regulation as provided herein.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next administrative register.

(3) Emergency administrative regulations shall expire ninety (90) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation which has expired shall not be renewed and no other emergency administrative regulation shall be promulgated on the same topic.

(5) If it is intended that an emergency administrative regulation's subject matter remain in effect then the ordinary administrative regulation covering that subject matter shall be filed on or before the effective date of the emergency administrative regulation.

(6) The subcommittee may review an emergency administrative regulation and may recommend to the governor that the regulation be revoked.

(7) Each emergency administrative regulation shall contain a statement detailing the nature of the emergency, the reasons why an ordinary administrative regulation would not suffice, whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation, and if the emergency administrative regulation will not be replaced by an ordinary administrative regulation the reasons therefor.

(8) Each emergency administrative regulation shall be signed by the head of the administrative body and shall be countersigned by the governor.

SECTION 20. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

An administrative regulation in contemplation of a statute provides a means whereby an administrative body may promulgate and file an administrative regulation following the enactment of a statute authorizing or directing its promulgation by the general assembly and its approval by the governor or its becoming law without signature but before the effective date subject to the following:

(1) The administrative regulation may be filed any time after signature by the governor or upon the Act becoming law without the governor's signature but prior to the Act's effective date.

(2) The proposed administrative regulation may be reviewed, hearings, held, and all other steps taken with regard thereto, except for adoption, prior to the effective date of the statute which authorized or directed its issuance.

(3) All dates and other procedures which apply to an ordinary administrative regulation shall apply to an administrative regulation in contemplation of a statute.

(4) An administrative regulation in contemplation of a statute shall in all other respects be considered as a proposed ordinary administrative regulation.

SECTION 21. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies may use any number of tiers they feel will solve most effectively the problem the administrative regulation addresses. If the administrative body does not tier its administrative regulations, a written statement must be submitted to the legislative research

commission explaining why tiering was not used.

(2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:

(a) Reduce or modify substantive regulatory requirements;
(b) Eliminate some requirements entirely;
(c) Simplify and reduce reporting and recordkeeping requirements;
(d) Provide exemptions from reporting and recordkeeping requirements;
(e) Reduce the frequency of inspections;
(f) Provide exemptions from inspections and other compliance activities;
(g) Delay compliance timetables; and
(h) Reduce or modify fine schedules for noncompliance.

(3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and non-size variables. Size variables include number of citizens, number of employes, level of operating revenues, level of assets and market shares. Non-size variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations and level of federal funding.

(4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:

(a) Changing demographic characteristics;
(b) Changes in the composition of the work force;
(c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;
(d) Changes in market concentration and segmentation;
(e) Advances in technology; and
(f) Changes in legislation.

(5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in section 632 of the federal small business act and part 121 of title thirteen of the code of federal regulations.

SECTION 22. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall be filed with the administrative regulations compiler as an original document with five (5) copies and shall contain:

(1) A citation of the authority pursuant to which it, or any part of it, was adopted;

(2) A brief statement which sets forth with particularity the necessity for promulgating, amending, or repealing the administrative regulation;

(3) A summary of the functions sought to be implemented by the proposed or revised administrative regulation or the repeal of an existing administrative regulation;

(4) The date, time and place of the public hearing required in Section 27 of this Act;

(5) The signature of the person within the administrative body authorized by the body to sign administrative regulations;

(6) The signature of an attorney representing the administrative body who shall certify that the administrative regulation is in proper form and that the requirements of subsections (2) and (3) of this section have been met and are correct;

(7) The signature of the governor and such other documentation as required by Section 19 of this Act if the proposal is filed as an emergency administrative regulation.

SECTION 23. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall be filed with the administrative regulations compiler accompanied by an original and five (5) copies of:

(1) The regulatory impact analysis required by Section 24 of this Act.

(2) The statement as to why tiering as required in Section 21 of this Act was not used, if it has not been used.

(3) The fiscal note required by Section 25 of this Act.

SECTION 24. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Every administrative body shall prepare and submit to the legislative research commission an original and five (5) duplicate copies of a regulatory impact analysis for every proposed administrative regulation. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) The type and number of individuals, businesses, organizations and state and local governments affected by the administrative regulation; and

(b) The direct and indirect costs or savings, as well as the compliance, reporting and paperwork requirements of the administrative regulation on those affected for the first year following the

implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and

(c) The direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and

(d) An assessment of any anticipated effect on state and local revenues; and

(e) An assessment of alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the proposed administrative regulation; and

(f) A written statement identifying any statute, rule, regulation or governmental policy which the proposed administrative regulation may be in conflict with overlap or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the proposed administrative regulation with any statute, rule, regulation or governmental policy with which it has been found to be in conflict.

(2) The legislative research commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the proposed administrative regulation. The legislative research commission may require any administrative body to submit background data upon which subsections (1)(a) through (1)(f) are based and an explanation of how the data was gathered.

SECTION 25. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Each administrative body which promulgates a proposed administrative regulation, proposed amendment to an administrative regulation, repeal of an administrative regulation, or emergency administrative regulation which relates to any aspect of local government or any service provided thereby shall prepare and submit with the regulation a fiscal note.

(2) The form of the fiscal note shall be determined by the commission by administrative regulation.

(3) Any administrative body may request the advice and assistance of the commission in the preparation of the fiscal note.

SECTION 26. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

At the first meeting of the commission following publication in the administrative register of the proposed administrative regulation, proposed amendment of an administrative regulation, proposed repeal of an administrative regulation, or emergency administrative regulation, the commission shall assign the matter to a subcommittee for review and consideration. If the meeting of the commission and the date of publication of the administrative register coincide the commission may assign the matter to a subcommittee for review and consideration on that date.

SECTION 27. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Not less than twenty (20) nor more than thirty (30) days following publication in the administrative register of the text of a proposed administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (2) of this section, hold a hearing, open to the public, on the proposed administrative regulation.

(2) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) days before the scheduled date of the hearing. If no requests to testify are received by the administrative body within five (5) days of the hearing, then the administrative body may cancel the hearing. If the hearing is cancelled, the administrative body shall forthwith notify the administrative regulations compiler who shall note the fact that the hearing was cancelled upon the face of the regulation.

(3) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (2) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(4) Nothing in this section shall be construed as requiring a separate hearing on each proposed administrative regulation, proposed amendment to an administrative regulation or proposed repeal of an administrative regulation. Regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

SECTION 28. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS

FOLLOWS:

(1) Following the scheduled hearing date the administrative body shall give consideration to all written and oral statements received, whether at the hearing or otherwise, regarding the proposed administrative regulation, proposed amendment to an administrative regulation or repeal of an administrative regulation.

(2) The administrative body shall then file with the commission by 12 noon, eastern time, on the fifteenth (15th) day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) If the proposed administrative regulation, proposed amendment of an administrative regulation, or repeal of an administrative regulation is amended as a result of the hearing or other comments received a copy of the regulation as amended, a statement indicating what changes have been made in the original wording, and a statement summarizing the comments to the administrative body shall be submitted within the time limit specified in subsection (2) of this section.

(4) If the administrative regulation is amended pursuant to subsection (3) of this section the full text shall be published in the administrative register.

SECTION 29. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Within forty-five (45) days of the receipt of the statement of consideration the subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the meeting shall be given in the administrative register.

(4) A representative of the administrative body promulgating the proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon.

(5) Following the meeting and before the next regularly scheduled meeting of the commission the subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the administrative register.

SECTION 30. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The administrative body which has promulgated a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation may request at a meeting of the subcommittee that consideration of the administrative regulation be deferred by the subcommittee.

(2) Upon receipt of the request the subcommittee shall defer consideration of the proposal.

(3) The deferring of a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation shall have the same effect as an action under Section 31 of this Act.

(4) The subcommittee shall not have the authority to defer consideration of a matter on its own authority or upon the request of any party other than the administrative body which promulgated the proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation.

(5) Except as provided in subsections (1) through (4) of this section neither the promulgating administrative body, the commission, nor the subcommittee shall defer any action which is required to be taken pursuant to this Act.

SECTION 31. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption.

(4) Once a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

(5) If the administrative body defers action on a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation and subsequently determines that the proposal should go into effect without amendment, the administrative body

shall, before the deadline for publication in the administrative register, notify the regulations compiler who shall publish the determination in the administrative register and place the matter on the agenda of the next scheduled meeting of the subcommittee. The subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

SECTION 32. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the subcommittee, nothing in this Act shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the administrative register.

SECTION 33. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of an administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day the subcommittee meets to consider the proposal.

SECTION 34. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Each administrative body shall file within one (1) year of July 1, 1984, in accordance with the provisions of KRS Chapter 13 or 13A, all administrative regulations which were filed by such administrative body prior to July 1, 1984, and which are still effective and all administrative regulations which were filed by such administrative body prior to July 1, 1984, and which do not become effective until after July 1, 1984.

(2) All administrative regulations filed prior to July 1, 1984, whether or not they shall have become effective, are rescinded effective one (1) year after July 1, 1984.

SECTION 35. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall apply to all grants of authority to promulgate administrative regulations and no administrative regulation shall be promulgated or adopted unless in conformity with the provisions of this Act.

(2) The provisions of this Act shall apply to all other acts passed by the 1984 session of the general assembly.

(3) Any existing statute and any act passed by the 1984 session of the general assembly which is in conflict with the provisions of this Act is repealed to the extent of the conflict.

SECTION 36. The following KRS sections are repealed:

13.075	Definition of commission.
13.080	Definitions and construction.
13.082	Uniformity of power to adopt regulations -- Repeal of conflicting provisions.
13.083	Definition of "tiering" -- Methods of tiering.
13.084	Refiling of regulations -- Rescinding of regulations not refiled.
13.085	Publication, hearing and review of proposed administrative regulation -- Emergency regulation -- Requisites of proposal -- Public hearing.
13.086	Agencies to submit regulatory impact analyses -- Contents -- Review by legislative research commission.
13.087	Administrative regulation review subcommittee -- Submission of regulations -- Procedure upon objection to regulation.
13.088	Emergency regulation -- Procedure.
13.090	Functions of legislative research commission.
13.092	No regulation to be effective until accepted by legislative research commission -- Exception -- Effect of holding this provision unconstitutional.
13.096	Kentucky administrative regulations service -- Administrative register
13.097	Regulations compiler -- Certificate -- Filing of publication with secretary of state.
13.100	Effect of commission's file stamp on regulation or publication of regulation.
13.102	Administrative publication of informational copies.
13.105	Judicial notice.
13.115	File of ineffective regulations to be kept.
13.125	Notice and hearings on proposed regulations.

Calendar

HR 48, HB 371, HB 462, HB 467, SB 35, HB 33, HB 98, HB 298, HB 427, HB 451, HB 488, HB 575, HB 579, HB 581, HR 24, HCR 30, SB 79, SJR 1, SCR 6, and **SB 92** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 440, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Floor Amendment No. 1 to **HB 440.** Agreed.

Representative Mann moved that **HB 440,** as amended, be passed.

On the roll call the vote was yeas 51-Arnold, Bendl, Bennett, Blandford, Blevins, Bronger, Burch, Caldwell, Clapp, L. Clark, Clarke, Cowan, Donnermeyer, Dunn, Freibert, Guenthner, Hancock, Harper, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kidd, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Morris, Nett, Noland, O'Brien, Petty, Priddy, Rapier, Reinhardt, F. Smith, Stumbo, Thomas, Thomason, Van Horn, Williams, Yates. Nays 38-Allen, Barrows, Brinkley, Brown, P. Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Handy, Layman, Lefevers, Little, Moberly, Noe, Overstreet, Pearman, Perkins, Rattliff, Riner, Robinson, Seum, B. Smith, Todd, Turner, White, Worthington.

HB 440, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 440,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 365, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Amendment No. 1 to **HB 365.** Agreed.

Representative Gray moved that **HB 365,** as amended, be passed.

On the roll call the vote was yeas 82-Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Hancock, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McElroy, McNutt, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 12-Allen, Bendl, Clarke, Cowan, Freibert, Guenthner, Harper, R. Jones, Mann, Nett, Patrick, Robinson.

HB 365, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 365,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 8, SB 37, SB 57,** and **SB 110** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:32 p.m.)

Orders of the Day (continued)

HB 398 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 398** be passed.

On the roll call the vote was yeas 55-Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Bruce, Burch, L. Clark, P. Clark, Clarke, Cowan, Craddock, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Gedling, Gray, Handy, Harper, Hines, Johnson, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Lundergan, Maggard, Mann, McElroy, Meyer, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Reinhardt, B. Richardson, Riner, Seum, F. Smith, Stone, Stumbo, Thomason, Van Horn, White, Williams, Yates. Nays 33-Allen, Burnette, Caldwell, Crupper, Curd, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Hancock, Head, Heleringer, Holbrook, Holloway, R. Jones, Layman, Lefevers, Long, McNutt, Moberly, Morris, Noland, Overstreet, Patrick, Rapier, Richards, P. Richardson, Robinson, B. Smith, Todd, Turner.

HB 398 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 398** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 478 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved that **HB 478** be passed.

On the roll call the vote was yeas 82-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, Cline, Cowan, Craddock, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Petty, Priddy, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 10-Burnette, Clarke, Curd, Cyrus, Farrow, Fryman, Pearman, Perkins, Rapier, B. Smith.

HB 478 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 478** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 220, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved the adoption of the Committee Substitute to **HB 220.** Agreed.

Representative Lungergan moved that **HB 220,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Van Horn, White, Worthington, Yates. Nays 8-Brown, Caldwell, Endicott, Freibert, Harper, Mann, Pearman, Turner.

HB 220, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 220**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HB 245, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of the Committee Amendment No. 1 to **HB 245**. Agreed.

Representative F. Smith moved that **HB 245**, as amended, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nay 1-Meyer.

HB 245, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 245**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 306** had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:55 p.m.)

HB 306 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

SB 39 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **SB 39** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams. Nays 0.

SB 39 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 39**, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 14, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of the Floor Amendment NO. 1 to **HB 14**. Agreed.

Representative Ford moved that **HB 14**, as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 14, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 14**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

A meeting of the majority caucus was announced for 4:00 p.m., Room 109.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 662, by Representative Deskins: AN ACT relating to mining.

HB 663, by Representative Deskins: AN ACT relating to mining.

HB 664, by Representative Deskins: AN ACT relating to mining.

HB 665, by Representatives Noe, Stumbo, and Deskins: AN ACT relating to the board of energy research.

HB 666, by Representative Kenton: AN ACT relating to motor carriers.

HB 667, by Representatives Bennett, Van Horn, Hancock, Turner, Holloway, Cyrus, Gray, and Noland: AN ACT relating to health services for the families of Vietnam veterans and making an appropriation therefor.

HB 668, by Representative Blevins: AN ACT relating to elections.

HB 669, by Representative Caldwell: AN ACT relating to amend the Kentucky Constitution relating to referendum.

HR 66, by Representatives Pearman and Blandford: AN ACT relating to legislative branch consideration of matters relating to military and veterans affairs.

HR 67, by Representative Guenthner: AN ACT amending Rule 40 of the Rules of the House of Representatives.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 121, HB 526, HB 630, HB 618.**

Agriculture and Small Business: **SB 11.**

Judiciary-Civil: **HB 302, HB 535, HB 83, HB 573, HB 574.**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 533** with Committee Amendment attached thereto, **HB 534,** and **SR 8** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 533, AN ACT relating to illegal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.177 is amended to read as follows:

The commissioner shall have the following authority to appoint a special task force to investigate illegal mining relative to violations of KRS Chapters 351 and 352:

(1) A sufficient number of mine inspectors and support personnel shall be assigned for the purpose of this section. Such inspectors shall be responsible for enforcement of the provisions of KRS Chapters 351 and 352 relating to criminal offenses.

(2) To assist with the enforcement of the duties of this section, the department *may* [~~shall~~] contract with the Kentucky state police for services of a sufficient number of police officers who possess adequate training and who shall be empowered to arrest any person either violating or in violation of the provisions of KRS Chapters 351 or 352 that constitute criminal offenses.

(3) In addition to penalties prescribed in KRS 351.990, authorized representatives of the special task force for illegal mining established by this section shall be empowered with the authority to seize and take possession of any equipment being used for the purpose of illegal mining of coal without a valid mine license as required by KRS 351.175.

(4) Upon conviction of any person for violation of mining of coal without a valid mine license as required by KRS 351.175, the court shall order any equipment used in the crime forfeited and sold by sealed bids. Proceeds from such sale shall be deposited in the illegal mining fund as established in subsection (9) of this section.

(5) All property seized under this section shall be subject to the right of any owner or lienor, whose lien is valid and recorded, to intervene and, upon trial or special hearing held for that purpose before the court, establish his rights in the property by proving that the property was being used in connection with mining without a *license* [~~permit~~] without the knowledge, consent or approval of the owner or lienor. If the owner of the property does so prove, the court may order the property restored to him. If the lienor so proves, the court may order a sale of the property by sealed bid with the lienor receiving from such sale the amount of his outstanding lien. However, the department shall deliver any seized property to a lienor whose claim has been established by order of a court of competent jurisdiction upon payment to the department of the difference between the fair market value of the property so seized and the recorded claim of the lienor.

(6) If the defendant is acquitted, all property seized in connection with the arrest of the defendant shall be ordered returned to the rightful owner unless previously returned under subsection (5) of this section.

(7) All expenses associated with the seizure, storing, and if applicable, sale of such property shall be the responsibility of the defendant if he is convicted.

(8) It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the court before the act of forfeiture occurs.

(9) There is established a special fund to be known as the "illegal mining fund" which shall be under the control of the department.

(10) The fund shall consist of all moneys from the court ordered sale or forfeiture of said equipment.

(11) Moneys contained in the illegal mining fund shall be deemed a trust and agency account and shall be used solely for the purpose of enforcement of KRS Chapters 351 and 352 by the department.

(12) The department shall have access to and control of the moneys held in the illegal mining fund, but shall expend such moneys only for the purpose set forth in subsection (11) of this section.

The Committee Amendment to **HB 533** is as follows:

Amend printed copy of **HB 533** on page 1, line 18, after the word "offenses." by adding the following language:

"*However, all investigations of illegal mining and/or seizure of mining equipment shall be approved by the commissioner or his authorized representative prior to any action by the task force.*"

HB 534, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Approved" means a device, apparatus, equipment, machinery or practice approved by the commissioner of the department of mines and minerals;

(b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(c) "Commercial mine" means any coal or clay mine from which coal or clay is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal or clay is produced for own use;

(d) "Commissioner" means commissioner of the department of mines and minerals;

(e) "Department" means the department of mines and minerals;

(f) "Drift" means an opening through the strata, with opening grades such as to permit coal to be hauled by animals or mechanical traction power, and capable of being used for the purpose of ventilation, drainage, ingress, egress and other purposes in connection with the mining of coal;

(g) "Excavations and workings" includes all the excavated portions of a mine, whether abandoned or being worked, all underground workings, shafts, slopes, tunnels, ways and openings, whether completed or in the course of being sunk or driven, and all roads, appliances, machinery and material connected therewith below the surface;

(h) "Fire boss" (often referred to as mine examiner) means a person designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(i) "Gassy mine" means any mine in which there is a record of methane having been ignited, or has been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (25/100%) or more has been found not less than twelve (12) inches from the roof, face or rib, using approved methane testers or detectors or by analysis, provided, nevertheless, that on and after June 19, 1976 all mines shall be classified as gassy or gaseous;

(j) "Mine" means any open pit or any underground workings from which coal or clay is produced for sale, exchange or commercial use, and all shafts, slopes, drifts or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with such workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered a separate mine, *notwithstanding the foregoing, the definition of "mine" shall apply to any mine site at which coal or clay is stockpiled in an amount in excess of one hundred (100) tons, whether or not such coal or clay is so stockpiled for one's own use*;

(k) "Mine foreman" means the certified person who the operator or superintendent places in charge of the workings of the mine and of the persons employed therein;

(l) "Open-pit mine" shall include open excavations, prospect openings, and open-cut workings including auger mines for the extraction of coal or clay;

(m) "Operator" means any owner, lessee, or other person who operates or controls a coal or clay mine;

(n) "Permissible" means any equipment, device, or explosive that has been approved as permissible by the United States bureau of mines or the mining enforcement and safety administration and meets all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by the bureau;

(o) "Pure intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19 1/2%) oxygen nor more than one-half of one percent (1/2%) of carbon dioxide, nor any dangerous quantities of flammable gas nor any harmful amounts of poisonous gas or dust;

(p) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible or pillared workings;

(q) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal or clay, for the purpose of ventilation or drainage, or for hoisting men, coal, clay or materials;

(r) "Slope" means an inclined opening used for the same purpose as a shaft;

(s) "Superintendent" means the person who, on behalf of the operator, has immediate supervision of one (1) or more mines;

(t) "Supervisory personnel" shall mean a person or persons properly certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal and clay mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 2. KRS 351.105 is amended to read as follows:

(1) There is hereby created the board of miner training, education and certification.

(2) The board shall be made up of six (6) persons, two (2) of whom shall be from the underground coal industry in the eastern Kentucky coalfield and two (2) of whom shall be from the underground coal industry in the western Kentucky coalfield. Each of the two (2) coalfields shall be represented by one (1) person representing the miners and one (1) person representing the mine operators. The governor in making his appointments shall balance the membership of the board so as to reflect as nearly as possible the composition of the industry as regards the size of operations and the representation of the miners. The commissioner of the department shall serve as chairman. The sixth member of the board shall be the director of the division of miner training, education and certification of the department, who shall be a nonvoting member. The board shall recommend to the governor a candidate for the position of director of the division.

(3) Members of the board shall be appointed by the governor within three (3) months of December 22, 1976.

(4) Excluding the commissioner and the director of the division of miner training, education and certification, one (1) member of the board shall be appointed initially for a period of one (1) year; one (1) member for a period of two (2) years; one (1) member for a period of three (3) years; and one (1) member for a period of four (4) years. After the initial appointments, members shall be appointed to a full four (4)-year term. Members of the board may be reappointed at the expiration of their previous appointment at the pleasure of the governor. Members shall continue to serve until a successor is appointed and qualified.

(5) As soon as practicable after the members of the board have been appointed, the commissioner shall call an organizational meeting to implement the provisions of this section.

(6) Persons appointed to the board to represent the miners shall be employed in non-supervisory positions at mines in this state and shall have a minimum of five (5) years' underground experience in the industry and a mine foreman's certificate. Persons representing the mine operators shall be employed by coal companies operating in the state and shall have a minimum of five (5) years' experience in safety or training in the coal mining industry and a mine foreman's certificate. The director shall have a minimum of five (5) years' practical underground mining experience.

(7) Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section. The vacancy shall be filled by the governor within thirty (30) days from the date the vacancy occurs.

(8) A quorum of the board shall be three (3) voting members; the board may act officially by a majority of those members who are present except that no action shall be taken without at least three (3) affirmative votes. When necessary for the commissioner to be absent, he is empowered to name an alternate to serve as chairman.

(9) Each miner-member and operator-member of the board shall receive one hundred dollars ($100) per diem while actually engaged in the performance of the work of the board and shall receive mileage at the rate provided by the state's travel regulation for each mile actually traveled from the home of the member to the place of the meeting and returning therefrom, which shall be paid out of the state treasury upon proper requisition approved by the commissioner.

(10) The commissioner shall keep and maintain records of board meetings and activities of the board, as well as current records on all certified persons which shall be maintained by computer for ready access.

(11) The board shall establish criteria and standards for a program of education and training to be required of prospective miners of underground coal mines, miners of underground coal mines, and of all certified persons. Such education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102, the requirements of the federal government for the training of miners for new work assignments, but in no case less than twenty (20) hours training for new work assignments, and at least eight (8) hours of annual retraining and reeducation for all certified persons.

(12) Beginning with the first full calendar year after the effective date established by the board [~~in~~

~~accordance with KRS 351.104~~] and during each calendar year thereafter, each certified miner shall receive at least eight (8) hours of retraining and reeducation.

(13) Each underground coal mine operator shall annually certify to the department the dates on which the annual retraining and reeducation sessions were conducted and the names and corresponding miner identification numbers of those persons receiving the retraining and reeducation in the form prescribed by the commissioner.

(14) Retraining and reeducation sessions shall be conducted at such times and in such numbers as to reasonably assure each certified miner an opportunity to attend.

(15) Willful failure of a certified miner to complete an annual retraining and reeducation program approved by the board shall constitute grounds for revocation, suspension, or probation of the certificate.

(16) Operators shall pay all certified persons their regular wages and benefits while receiving the annual retraining and reeducation and the training for new work assignments.

(17) Prior to issuing standards, the board shall conduct public hearings after allowing at least thirty (30) days' public notice at which the parties who may be affected by the board's actions may be heard.

(18) The board may conduct hearings, compel the attendance of witnesses and conduct oversight activities as may be required to ensure the full implementation of its programs and standards.

(19) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements set by the board, provided that the training and education meet the minimum requirements of this chapter.

Section 3. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means a device, apparatus, equipment, machinery or practice approved by the commissioner of the department of mines and minerals;

(d) "Approved safety lamp" means any bonneted lamp that bears the approval plate of the federal bureau of mines or the mining enforcement and safety administration and is approved by the department of mines and minerals of this state;

(e) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(f) "Board" means the board of miner training, education and certification;

(g) "Commercial mine" means any coal or clay mine from which coal or clay is mined for sale, commercial use or exchange. This term shall in no instance be construed to include a mine where coal or clay is produced for own use, *unless such coal or clay is stockpiled at the site from which it is mined in an amount in excess of one hundred (100) tons; if so stockpiled, a license shall be required, in the manner established in KRS 351.175*;

(h) "Commissioner" means commissioner of the department of mines and minerals;

(i) "Department" means the department of mines and minerals;

(j) "Drift" means an opening through the strata, with opening grades such as to permit coal to be hauled by animals or mechanical traction power, and capable of being used for the purpose of ventilation, drainage, ingress, egress and other purposes in connection with the mining of coal;

(k) "Excavations and workings" includes all the excavated portions of a mine, whether abandoned or being worked, all underground workings, shafts, slopes, tunnels, ways and openings, whether completed or in the course of being sunk or driven, and all roads, appliances, machinery and material connected therewith below the surface;

(l) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(m) "Fire boss" (often referred to as mine examiner) means a person designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(n) "Gassy mine" means any mine in which there is a record of methane having been ignited, or has been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent or more has been found not less than twelve inches from the roof, face or rib, using approved methane testers or detectors or by analysis, provided, nevertheless, that on and after June 19, 1976, all mines shall be classified as gassy or gaseous;

(o) "High voltage" means any voltage greater than one thousand volts;

(p) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(q) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(r) "Low voltage" means up to and including six hundred sixty volts;

(s) "Medium voltage" means voltages from six hundred sixty to one thousand volts;

(t) "Mine" means any open pit or any underground workings from which coal or clay is produced for sale, exchange or commercial use, and all shafts, slopes, drifts or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with such workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered a separate mine;

(u) "Mine foreman" means the certified person who the operator or superintendent places in charge of the workings of the mine and of persons employed therein;

(v) "Open-pit mine" shall include open excavations, prospect openings and open-cut workings including auger mines for the extraction of coal or clay;

(w) "Operator" means any owner, lessee, or other person who operates or controls a coal or clay mine;

(x) "Permissible" means any equipment, device, or explosive that has been approved as permissible by the United States bureau of mines or the mining enforcement and safety administration and meets all requirements, restrictions, exceptions, limitations, and conditions attached to such classification by the bureau;

(y) "Punch mining" means workings that are driven directly into the seam without cross entries;

(z) "Pure intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent oxygen nor more than one-half of one percent of carbon dioxide, nor any dangerous quantities of flammable gas nor any harmful amounts of poisonous gas or dust;

(aa) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible or pillared workings;

(bb) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal or clay, for the purpose of ventilation or drainage, or for hoisting men, coal, clay or materials;

(cc) "Slope" means an inclined opening used for the same purpose as a shaft;

(dd) "Superintendent" means the person who, on behalf of the operator, has immediate supervision of one or more mines;

(ee) "Supervisory personnel" shall mean a person or persons properly certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the person employed therein;

(ff) "Tipple or dumping point" means the tipple or structure where coal or clay is dumped or unloaded from the mine car into railroad cars, trucks, wagons or other means of conveyance;

(gg) "Working face" means any place in a coal or clay mine in which work of extracting coal or clay from its natural deposit in the earth is performed during the mining cycle;

(hh) "Working place" means the area of a coal or clay mine inby the last open crosscut;

(ii) "Working section" means all areas of a coal or clay mine from the loading point to and including the working faces.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

SCR 8, A CONCURRENT RESOLUTION urging the Congress to take action that will limit foreign steel imports.

WHEREAS, the American steel industry has engaged in extraordinary self-help efforts including the commitment of millions of dollars to modernization and the reduction of employment cost; and

WHEREAS, foreign steel imports now account for approximately twenty percent (20%) of the steel consumed in the United States; and

WHEREAS, the American steel and coal industries, and those particularly in Kentucky, are suffering from painfully high levels of unemployment which result in large measure from foreign steel imports; and

WHEREAS, most steel entering the United States is unfairly traded because it is dumped, subsidized or the beneficiary of targeted foreign government development assistance; and

WHEREAS, United States trade laws have been ineffective in stemming the tide of unfairly traded foreign steel; and

WHEREAS, unfair trade in steel is the single most serious threat to the survival of a healthy industry in Kentucky and in the United States; and

WHEREAS, the American steel industry produces industrial material which is essential to the United States economy and necessary to our national defense; and

WHEREAS, the steel industry is an important part of the Kentucky economy, providing employment for thousands of the Commonwealth's residents; and

WHEREAS, the American steel industry and Kentucky's coal mining industry are linked by an important and mutually beneficial customer-supplier relationship;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Commonwealth of Kentucky urges Congress to support the Fair Trade and Steel Act of 1983 which limits imports of foreign steel to not more than fifteen percent (15%) of American steel consumption for a period of at least five (5) years; and

Section 2. That a copy of this resolution be sent to each member of the Kentucky delegation to Congress, each member of the Congressional Steel Caucus, the presiding officers of each House of Congress, and the President of the United States.

The Committee on Education reported **HB 524,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 524, AN ACT relating to public school attendance and completion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary *program of studies,* [~~course of study~~] he is entitled to a certificate of completion signed by the teacher or teachers under whom the *program* [~~course~~] was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one district to the school of another district an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) The state board of education shall establish the requirements for a vocational diploma at the secondary level. If a student has successfully completed all the requirements of a vocational program but does not meet all state and local board requirements for the regular high school diploma, a vocational diploma shall be issued. The vocational diploma shall indicate the vocational area in which the student has been trained.

The Committee Substitute to **HB 524** is as follows:

HB 524, AN ACT relating to public school attendance and completion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary *program of studies,* [~~course of study~~] he is entitled to a certificate of completion signed by the teacher or teachers under whom the *program* [~~course~~] was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one district to the school of another district an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) The department of education shall establish the requirements for a vocational certificate of completion. A student whose progress indicates that the student is not likely to receive an academic diploma or a student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has not met all requirements for a high school diploma but has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Motions, Petitions and Communications (continued)

The following Floor Amendments were filed to Bills:

Floor Amendment No. 7 to **HB 119,** by Representative Meyer:

Amend printed copy of Committee Substitute to **HB 119** on page 3, line 14, add the following new subsection:

(3) Nothing in this Act shall be construed to apply to lay-offs of police officers. Lay-offs shall be in accordance with statute, ordinance, regulation or contract.

On page 6, line 15, insert the following after the word "*action*"; "*except that such records may be maintained indefinitely in a location other than the officers' personnel files, but may not be considered in personnel decisions if maintained beyond the time limits above*

And beginning on page 13, line 26, and continuing through page 14, line 21, delete Section 9 in its entirety

And on page 13, line 26, insert the following new language:

SECTION 9. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

Except in cities of the first class, the chief of police in any city, county, or urban-county government which has established a police department shall be appointed for an indefinite term by the appointing authority and may be removed only by a majority vote of the legislative body. At least thirty (30) days before such removal shall become effective the legislative body shall by a majority vote of all its members adopt a preliminary resolution stating the reasons for his removal. The chief of police may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request. After the public hearing, if requested, and after full consideration, the legislative body by majority vote of all its members may adopt a final resolution of removal. By the preliminary resolution the legislative body may suspend the chief of police from duty, but shall in any event cause to be paid to him any unpaid balance of his compensation and compensation for the next calendar month following adoption of the preliminary resolution.

Floor Amendment No. 1 to **HB 324,** by Representative Kenton:

Amend printed copy of **HB 324,** on page 5, line 4, add the following new subsection to Section 2:

"*(6) The requirements set out in Sections 1 and 2 of this Act for a person to qualify for a property assessment or reassessment moratorium certificate are minimum requirements and a local government establishing a property assessment or reassessment moratorium program may establish by ordinance additional or more restrictive requirements as deemed appropriate.*

Floor Amendment No. 1 to **HB 389,** by Representative Van Horn:

Amend printed copy of **HB 389** on page 3, after line 2, insert:

SECTION 2. A NEW SECTION OF KRS CHAPTER 325 IS CREATED TO READ AS FOLLOWS:

Noting contained in this chapter shall be construced to prohibit anyone who is not a certified public *accountant from preparing tax returns or furnishing of advice on tax matters, preparing, reviewing, compiling or signing financial statements, including review statements provided the report issued thereon does not express an opinion or other attestation as to the failure, accuracy or reliability of such statement or report.*

On line 3, renumber Section 2 to Section 3 and all other sections accordingly.

A meeting of the Committee on Rules was announced on adjournment, State Reception Room.

Representative Maggard moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative Maggard moved the adoption of the following **HR 65**:

HR 65, A RESOLUTION honoring Mrs. Marie R. Turner.

WHEREAS, Mrs. Marie R. Turner of Jackson, Kentucky has performed outstanding service to the people of Breathitt County; and

WHEREAS, her unselfish rendering of services has spread to encompass the entire region of eastern Kentucky; and

WHEREAS, her caring and concern have truly extended benefits and greatly heightened the quality of life for all citizens of this Commonwealth; and

WHEREAS, Mrs. Turner provided exemplary leadership for the Democratic Party while she served as State Chairman for that organization;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognize and honor Mrs. Marie R. Turner for her tremendous leadership and service to the people of Breathitt County, eastern Kentucky, and the Commonwealth in its entirety.

Section 2. That the Clerk of the House of Representatives be instructed to send a copy of this resolution to Mrs. Marie R. Turner.

HR 65 was adopted by voice vote.

Representative Bronger moved that his name be withdrawn as a co-sponsor of **HB 361**. Agreed.

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 64**:

HR 64, A RESOLUTION directing the Kentucky Department of Highways to name the soon to be constructed Greenup Dam bridge in honor of U.S. Congressman Carl D. Perkins.

WHEREAS, U.S. Congressman Carl D. Perkins has represented the constituents of Kentucky's 7th Congressional District with integrity, compassion and an abiding sense of social justice for more than 35 years; and

WHEREAS, Congressman Perkins' legislative record includes the Interstate Highway Act of 1956, the Basic Adult Education Act of 1961, the Manpower Development and Training Act of 1962 and the Vocational Education Act of 1963, as well as work to establish Social Security disability, black lung and child nutrition programs, and the Appalachian Regional Commission; and

WHEREAS, Congressman Perkins sponsored legislation which has resulted in increased employment training, improved health care, greatly expanded educational opportunities, modern highway facilities and the betterment of the quality of life for all Kentuckians; and

WHEREAS, Congressman Perkins has honored Kentucky by being a respected advisor to presidents and the longest serving committee chairman in the history of the House of Representatives; and

WHEREAS, it is fitting that Kentucky's longtime friend, advocate and defender be honored for a lifetime of dedicated public service;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Highways be directed to name the soon to be constructed Greenup Dam bridge in honor of U.S. Congressman Carl D. Perkins. This action, the General Assembly feels, is merited in view of Congressman Perkins' contributions to the Commonwealth during a tenure in office that has spanned four decades.

Section 2. That a copy of this resolution be transmitted to the Secretary of the Transportation Cabinet and Congressman Perkins.

HR 64 was adopted by voice vote.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, February 17, 1984.

On the roll call the vote was yeas 78-Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Brown, Bruce, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Harper, Head, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 6-Handy, Heleringer, Holloway, Maggard, Moore, Perkins.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 17, 1984

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Glynn Burke, Central Christian Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Holloway.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 16, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 7, SB 54, SB 81, SB 141, SB 173, SB 209, SB 210, SB 212, SJR 23, HB 208** with Senate Amendment, **HB 32, HB 66, HB 274, HB 322, HB 351,** and **HB 387.**

Introduction of Bills and Resolutions

HB 670, by Representatives Freibert, Bendl, McNutt, Craddock, Blevins, Priddy, Kenton, White, B. Smith, P. Clark, Kidd, Perkins, and Cline: AN ACT relating to estates.

HB 671, by Representatives R. Jones, Clarke, Harper, Caldwell, Freibert, Lile, Lefevers, Noland, Ford, Holloway, Moore, Allen, Turner, and Heleringer: AN ACT relating to the department of revenue.

HB 672, by Representative Burch: AN ACT relating to traffic regulations.

HB 673, by Representative Craddock, AN ACT relating to motor vehicle usage tax.

HB 674, by Representatives Stone and Morris: AN ACT relating to mobile homes and recreational vehicles.

HB 675, by Representatives Gray, Johnson, Cyrus, Stone, Brinkley, and Little: AN ACT relating to workers' compensation.

HB 676, by Representative Riner: AN ACT relating to crimes and punishments.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 667.**

Banking and Insurance: **HB 655.**

Cities: **HB 666.**

Education: **HB 660, HB 668.**

Energy: **HB 665.**

Health and Welfare: **SB 177.**

Judiciary-Civil: **HB 659.**

Judiciary-Criminal: **HB 661.**

Natural Resources and Environment: **HB 662, HB 663, HB 664, HB 656.**

State Government: **HB 657, HB 658, HB 669, HR 66, HR 67.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 473.**

Judiciary-Civil: **HB 511, HB 512, HB 580, HB 629.**

Counties and Special Districts: **HB 182, HB 185, HB 310, HB 401, HB 425, HB 593, HB 612, SB 155.**

Education: **HB 617.**

Report of Committees

The Committee on Rules reported **HB 98, HB 371, HB 427, HB 462, HB 488, HB 575, HB 579, HR 24, HCR 30, HR 48, SB 92, SJR 1, HB 519, HB 123,** and **HB 224** have been posted for passage in Orders of the Day, February 21, 1984.

The Committee on Natural Resources and Environment reported **HB 160,** with Committee Substitute attached thereto, and **HB 161,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 160, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Whenever an environmental emergency, as defined in KRS 224.877(1)(d), is caused by an oil or gas operation, any damages incurred by state agencies, county and city governments, and urban-county governments shall be recovered by the cabinet and the attorney general's office.

(2) The cabinet shall commence any effort to collect damages. In this effort the cabinet shall act as the coordinating agency for all state agencies, county and city governments, and urban-county governments, which have claims for damages based on the environmental emergency. The cabinet is authorized to investigate all claims and to seek compensation on behalf of all state agencies, county and city governments, and urban-county governments. Should the cabinet be unsuccessful in obtaining payment after exhausting administrative and non-judicial remedies, the cabinet shall then notify the attorney general's office of the need for litigating the claims.

(3) The attorney general shall then continue the attempt to obtain payment for the claims by filing suit in the court with proper jurisdiction. At the time of filing the suit the attorney general's office shall become the coordinating office for all state agencies, county and city governments, and urban-county governments, which have made claims for damages. The cabinet shall continue its participation by providing technical assistance and investigative resources. The attorney general's office is authorized to seek, on behalf of all claimants, full reimbursement of all claims, including but not limited to, operational expenses. The attorney general's office shall be entitled to reimbursement of court costs and to receive reasonable attorney's fees.

The Committee Substitute to **HB 160** is as follows:

HB 160, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Whenever an environmental emergency, as defined in KRS 224.877(1)(d), is caused by an oil or gas operation, which shall include but not be limited to pipelines and storage facilities, any costs incurred by state agencies, county and city governments, special districts, and urban-county governments shall be recovered by the cabinet and the attorney general's office. Costs shall include, but not be limited to, damages, operational expenses, overhead, and any other expense attributable to the emergency.

(2) The cabinet shall commence any effort to collect the costs. In this effort the cabinet shall act as the coordinating agency for all state agencies, county and city governments, special districts and urban-county governments, which have claims based on the environmental emergency. The cabinet is authorized to investigate all claims and to seek compensation on behalf of all state agencies, county and city governments, special districts and urban-county governments. Should the cabinet be unsuccessful in obtaining payment after exhausting non-judicial remedies, the cabinet shall then notify the attorney general's office of the need for litigating the claims.

(3) The attorney general shall then continue the attempt to obtain payment for the claims by filing suit in the court with proper jurisdiction. At the time of filing the suit the attorney general's office shall become the coordinating office for all state agencies, county and city governments, special districts and urban-county governments, which have made claims. The cabinet shall continue its participation by providing technical assistance and investigative resources. The attorney general's office is authorized to seek, on behalf of all claimants, full reimbursement of all claims. The attorney general's office shall be entitled to reimbursement of court costs and to receive reasonable attorney's fees.

HB 161, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.550 is amended to read as follows:

Without limiting its general authority, the department shall have the specific authority to require of and from all operators of any oil or gas property in this commonwealth:

(1) Identification of producing leases;

(2) The making of driller's logs, and filing of all logs and downhole surveys made;

(3) The drilling, casing, operation and plugging of wells in such manner as to prevent (a) the escape of oil or gas from one pool into another, or into mineral bearing stratum, (b) the detrimental intrusion of water into an oil or gas pool or into mineral bearing stratum that is avoidable by efficient operations, (c) blow-outs, cavings, seepages, and fires, *and (d) damage to underground fresh water sources by the injection of fluids for salt water disposal or for enhanced production*;

(4) The filing of the reports and plats with the department for transmittal to the Kentucky geological survey as may be prescribed by rules and regulations promulgated hereunder. All such reports and plats shall be transmitted by the department to the Kentucky geological survey within thirty (30) days after receipt thereof by the department.

Section 2. KRS 353.560 is amended to read as follows:

Without limiting its general authority, the department shall regulate:

(1) The drilling and plugging of all wells;

(2) The spacing or locating of wells;

(3) The use of vacuum; and

(4) *The injection of all fluids by oil and gas operators regardless of the purpose of such injection* [~~Make recommendations to the water pollution control commission as to disposal of salt water and oil field wastes~~].

Section 3. KRS 353.570 is amended to read as follows:

(1) No person shall *commence to* drill or deepen a well, or reopen a plugged well for the production of oil or gas or for the injection of water, gas or other fluid into any oil or gas producing formation (except seismograph test holes) after June 16, 1960, or drill or deepen a water supply well, and geological or structure

test holes after June 16, 1966, until such person shall obtain a permit from the department.

(2) *If an applicant is in noncompliance with any provision of this chapter or any rule, regulation or order of the department, then no permit may be issued until the matter of noncompliance has been corrected to the satisfaction of the department.* [~~When any applicant for a permit as required by this section has complied with the provisions of this chapter and all rules and regulations promulgated hereunder, the department shall issue the permit.~~

~~(3) The department may authorize the commencement of the drilling, deepening or reopening of any well prior to the issuance of a permit therefor; except if the location of the well is known to be underlaid by a coal-bearing stratum and consent of the owner, operator, and lessee of the coal-bearing stratum has not been granted. Consent shall be implied, when the coal-bearing stratum is owned by the oil and gas lessor or lessee, and the coal is not under lease to any third party.~~]

SECTION 4. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

When any well is unused for more than thirty (30) days, the operator of such well shall either place the well into its permitted use, obtain a temporary abandonment permit from the department or plug the well.

Section 5. KRS 353.590 is amended to read as follows:

(1) Any person, seeking a permit required by KRS 353.570, shall submit to the department a written application in such form as may be prescribed by the department.

(2) Each application shall be accompanied by a specified fee as follows:

(a) The fee shall be one hundred dollars ($100) for each well to be drilled, deepened or reopened for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. *The fee shall not be refunded if the application is processed and found not acceptable. The resubmittal of a rejected application shall be accompanied by a new fee.*

(b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended), the department may, by regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars ($50.00) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen or reopen a well for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the underground injection control program less any other state or federal funds which are made available for such purpose.

(c) All money paid to the state treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended).

(3) All money paid to the state treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the general assembly for the use of the department.

(4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the rules and regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by *a land surveyor* [~~the applicant, a qualified employe of the applicant, a person approved by the department, or an engineer registered in Kentucky, provided that when the location of the well is known to be underlaid by coal-bearing stratum, such plat shall be certified accurate and correct only by an engineer~~] registered in Kentucky. If any plat submitted by an applicant is determined by the department to be materially inaccurate or incomplete, the department may require that a new plat be prepared and submitted [~~either by a person approved by the director or an engineer registered in Kentucky. The department may further require that all future plats submitted by such an applicant be prepared either by a person approved by the director or an engineer registered in Kentucky~~].

(5) When any person submits to the department of mines and minerals an application for a permit to drill a well, or to reopen, deepen or temporarily abandon any well which is not covered by surety bond, the department shall except as provided in this section, require from the well operator a bond in the sum of *five thousand dollars ($5,000)* [~~$1,000~~] in favor of the department of mines and minerals, conditioned that the well upon abandonment shall be plugged in accordance with the rules and regulations of the department and that all records required by the department be filed as specified. The bond shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of such bond may file with the department a blanket bond in a sum of *one hundred thousand dollars ($100,000)* [~~$5,000~~], covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of such blanket bond shall be in full compliance with the above provision requiring an individual well bond. The bond or bonds referred to in this section shall be executed by the well operator as principal and by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds.

(6) *It is required that a successor to the well operator post bond and notify the department in writing in advance of receiving title to a well or wells. Said successor shall assume the obligations of this chapter, as to a particular well or wells, and the original permittee of responsibility under this chapter with respect to such well or wells. It is the responsibility of the selling operator to require the successor operator to post bond before transferring title to said successor. The department may close any well or wells if the bond company notifies the department that said bond or bonds are cancelled. Said notice shall not relieve the bond company of its obligations to the Commonwealth but shall only serve to stop the operation of a well or wells for which the bond company has cause to terminate its operation* [~~Notification in writing to the department by a successor to the well operator with bond as provided in subsection (5) that said successor is assuming the obligations of this chapter as to a particular well or wells, will relieve the original permittee of responsibility under this chapter with respect to such well or wells~~].

(7) If the requirements of subsection (5) with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall then be forfeited to the department.

(8) *Forfeiture of a bond pursuant to the provisions of this chapter may be ordered by the department counsel or in his absence by the attorney general, after notice from the director* [~~When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture~~].

(9) All sums received through the forfeiture of bonds shall be placed in the state treasury and credited to a special agency account to be designated as the oil and gas well plugging fund. This fund shall be available to the department and may be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for such plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

(10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of said hole confidential until such information is allowed to be released by the person obtaining such permit.

(11) For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock.

(b) Any water well used primarily for cooling purposes in an industrial process.

Section 6. KRS 353.990 is amended to read as follows:

(1) Any person who wilfully violates any of the provisions of KRS 353.050 to 353.130 or KRS 353.200 relating to the manner of drilling and casing or plugging and filling any well, or fixing the distance from wells within which mining operations may not be conducted, or any person who wilfully violates any of the terms of an order of the department allowing mining operations within a lesser distance of any well than that prescribed by this chapter shall be fined not more than *one thousand dollars ($1,000) per day for each day the violation continues* [~~two hundred dollars ($200)~~] or imprisoned in jail for not more than twelve (12) months, or both.

(2) Any person who violates any of the provisions of subsection (1) of KRS 353.150 shall be fined *one thousand dollars ($1,000)* [~~one hundred dollars ($100)~~] for each offense and in addition thereto *one thousand dollars ($1,000)* [~~one hundred dollars ($100)~~] for each *day* [~~thirty (30) days~~] the violation continues. The penalty shall be recovered in a civil action in the name of the commonwealth for the use of the county in which the well is located.

(3) Any person who violates any of the provisions of KRS 353.160 shall be fined not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] and, if the offender is a natural person, imprisoned not less than ten (10) days nor more than six (6) months. Each day that the violation continues shall constitute a separate offense.

(4) Any person who violates any of the provisions of subsection (1) of KRS 353.180 shall be fined [~~not less than one hundred ($100) nor more than~~] one thousand dollars ($1,000) *per day for each day the violation continues.*

(5) If any person violates any of the provisions of KRS 353.190 he shall be fined *one thousand dollars ($1,000)* [~~five dollars ($5.00)~~] for every twenty-four (24) hours that the violation continues.

Section 7. KRS 353.991 is amended to read as follows:

(1) Any person who violates any provision of KRS 353.570 shall be subject to a fine of not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] or imprisonment for a term not exceeding *one*

hundred and eighty (180) [~~thirty (30)~~] days, or both.

(2) Any person, who continues to violate any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 after being notified in writing of the violation by the department shall be subject to a fine of not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] or imprisonment for a term not exceeding *one hundred and eighty (180)* [~~thirty (30)~~] days, or both.

(3) Any person, who does any of the following for the purpose of evading or violating KRS 353.500 to 353.720, or any rule, regulation, or order promulgated or issued under KRS 353.500 to 353.720, shall be subject to a fine of not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] or imprisonment for a term not exceeding *one hundred and eighty (180)* [~~thirty (30)~~] days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by KRS 353.500 to 353.720, or by any rule, regulation or order;

(b) Omits or causes to be omitted from a report, record, account or memorandum full, true, and correct entries and information as required by KRS 353.500 to 353.720, or by any rule, regulation, or order;

(c) Removes from this commonwealth or destroys, mutilates, alters or falsifies a report, record, account or memorandum as required by KRS 353.500 to 353.720, or by any rule, regulation, or order.

(4) Any person who knowingly aids or abets any other person in the violation of any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 shall be subject to the same penalty as that prescribed in this section for the violation by such other person.

The Committee Substitute to **HB 161** is as follows:

HB 161, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

(1) "Department" means the department of mines and minerals as defined in KRS 351.010;

(2) "Commissioner" means the commissioner of the department of mines and minerals as defined in KRS 351.010;

(3) "Director" means the director of oil and gas conservation as provided in KRS 353.530;

(4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;

(5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, [~~or~~] fiduciary of any kind, *federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body*;

(6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof;

(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined above as oil;

(9) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool" as used herein;

(10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.

(11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;

(12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;

(13) "Workable bed" means:

(a) A coal bed actually being operated commercially;

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;

(14) "Well" means a borehole drilled, or proposed to be drilled, for the purpose of producing natural gas or petroleum, or one through which natural gas or petroleum is being produced, or a borehole drilled or proposed to be drilled for the purpose of injecting any water, gas or other fluid therein or one into which any water, gas or other fluid is being injected;

(15) "Shallow well" means any well drilled and completed at a depth less than four thousand (4000) feet except, in the case of any well drilled and completed east of longitude line 8430', shallow well means any well drilled and completed at a depth less than four thousand (4000) feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth.

(16) "Deep well" means any well drilled and completed below the depth herein provided for a shallow well.

(17) "Operator" means any owner of the right to develop, operate and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others; in the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as "operator" to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by such owner, and as "royalty owner" as to one-eighth (1/8) interest in such oil and gas; and in the event the oil is owned separately from the gas, the owner of the right to develop, operate and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool;

(18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that such owner is not an operator as defined in subdivision seventeen of this section.

(19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one well so as to produce the reasonable maximum recoverable oil or gas in such area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, such area shall be a drilling unit.

(20) "Beneficial interest" means any profit, benefit or advantage resulting from a contract or ownership of an operation for the production of oil or gas which is distinct from the legal ownership or control of such operation.

(21) "Fresh water" means water which does not contain total dissolved solids in concentrations greater than one thousand (1,000) milligrams per liter; however, for purposes of the administration of the underground injection control program under the Safe Drinking Water Act (Public Law 93-523, as amended), the department may regulate such other waters as may be necessary to obtain delegation of authority to administer said program.

(22) "Unused well" means any well which is not fully equipped for production and whose test for potential production does not indicate the capacity for commercial quantities, as determined by a registered engineer. This definition shall not include a shut-in or producing well.

Section 2. KRS 353.550 is amended to read as follows:

Without limiting its general authority, the department shall have the specific authority to require of and from all operators of any oil or gas property in this commonwealth:

(1) Identification of producing leases;

(2) The making of driller's logs, and filing of all logs and downhole surveys made;

(3) The drilling, casing, operation and plugging of wells in such manner as to prevent (a) the escape of oil or gas from one pool into another, or into mineral bearing stratum, (b) the detrimental intrusion of water into an oil or gas pool or into mineral bearing stratum that is avoidable by efficient operations, (c) blow-outs, *cave-ins* [~~cavings~~], seepages, and fires, *and (d) damage to underground fresh water sources by the injection of fluids for salt water disposal or for enhanced production*;

(4) The filing of the reports and plats with the department for transmittal to the Kentucky geological survey as may be prescribed by rules and regulations promulgated hereunder. All such reports and plats shall be transmitted by the department to the Kentucky geological survey within thirty (30) days after receipt thereof by the department.

Section 3. KRS 353.560 is amended to read as follows:

Without limiting its general authority, the department shall regulate:

(1) The drilling and plugging of all wells;

(2) The spacing or locating of wells;

(3) The use of vacuum; and

(4) *The injection of all fluids by oil and gas operators regardless of the purpose of such injection, except in the operation of underground gas storage fields* [~~Make recommendations to the water pollution control commission as to disposal of salt water and oil field wastes~~].

Section 4. KRS 353.570 is amended to read as follows:

(1) No person shall *commence to* drill or deepen a well, or reopen a plugged well for the production of oil or gas or for the injection of water, gas or other fluid into any oil or gas producing formation (except seismograph test holes) after June 16, 1960, or *commence to* drill or deepen a water supply well, and geological or structure test holes after June 16, 1966, until such person shall obtain a permit from the department.

(2) *Subject to subsections (3) and (4) of this section,* when any applicant for a permit as required by this section has complied with the provisions of this chapter and all rules and regulations promulgated hereunder, the department shall issue the permit.

(3) *Notwithstanding subsection (2) of this section, if the department determines that an applicant for a permit hereunder is an owner or operator of any well for which there are one (1) or more outstanding violations which remain uncorrected at the time of application for a new permit, said department shall not consider such application until all previous violations have been corrected* [~~The department may authorize the commencement of the drilling, deepening or reopening of any well prior to the issuance of a permit therefor; except if the location of the well is known to be underlaid by a coal-bearing stratum and consent of the owner, operator, and lessee of the coal-bearing stratum has not been granted. Consent shall be implied, when the coal-bearing stratum is owned by the oil and gas lessor or lessee, and the coal is not under lease to any third party~~].

(4) The department may require an applicant for a permit hereunder to disclose any beneficial interest of said applicant in all oil and gas operations currently or previously maintained in the Commonwealth. If said applicant holds a beneficial interest in an oil or gas operation for which there are one (1) or more outstanding violations of this chapter which remain uncorrected at the time of application, the department shall refuse to consider such application until all outstanding violations are corrected.

(5) A copy of the permit shall be posted in a conspicuous place at the permitted site prior to the commencement of drilling.

SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

When any well is unused for more than thirty (30) days, the operator of such well shall either place the well into its permitted use, obtain a temporary abandonment permit from the department or plug the well. This section shall not apply to a shut-in or producing well.

Section 6. KRS 353.590 is amended to read as follows:

(1) Any person, seeking a permit required by KRS 353.570, shall submit to the department a written application in such form as may be prescribed by the department.

(2) Each application shall be accompanied by a specified fee as follows:

(a) The fee shall be one hundred dollars ($100) for each well to be drilled, deepened or reopened for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. *The fee shall not be refunded if the application is processed and found not acceptable. The resubmittal of a rejected application shall be accompanied by a new fee.*

(b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended), the department may, by regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars ($50.00) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen or reopen a well for any purpose relating to the production, repressuring or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the underground injection control program less any other state or federal funds which are made available for such purpose.

(c) All money paid to the state treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended).

(3) All money paid to the state treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the general assembly for the use of the department.

(4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the rules and regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by *a land surveyor* [~~the applicant, a qualified employe of the applicant, a person approved by the department,~~] or an engineer registered in Kentucky[~~, provided that when the location of the well is known to be underlaid by coal-bearing stratum, such plat shall be certified accurate~~

~~and correct only by an engineer registered in Kentucky~~]. If any plat submitted by an applicant is determined by the department to be materially inaccurate or incomplete, the department may require that a new plat be prepared and submitted [~~either by a person approved by the director or an engineer registered in Kentucky. The department may further require that all future plats submitted by such an applicant be prepared either by a person approved by the director or an engineer registered in Kentucky~~].

(5) When any person submits to the department of mines and minerals an application for a permit to drill a well, or to reopen, deepen or temporarily abandon any well which is not covered by surety bond, the department shall except as provided in this section, require from the well operator a bond in the sum of *two thousand five hundred dollars ($2,500)* [~~$1,000~~] in favor of the department of mines and minerals, conditioned that the well upon abandonment shall be plugged in accordance with the rules and regulations of the department and that all records required by the department be filed as specified. The bond shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of such bond may file with the department a blanket bond in a sum of *twenty-five thousand dollars ($25,000)* [~~$5,000~~], covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of such blanket bond shall be in full compliance with the above provision requiring an individual well bond. The bond or bonds referred to in this section shall be executed by the well operator as principal and by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds.

(6) *It is required that a successor to the well operator post bond and notify the department in writing in advance of taking possession of a well or wells. Said successor shall assume the obligations of this chapter, as to a particular well or wells, and relieve the original permittee of responsibility under this chapter with respect to such well or wells. It is the responsibility of the selling operator to require the successor operator to post bond before granting possession to said successor. The department may close any well or wells if the bond company notifies the department that said bond or bonds are cancelled. Said notice shall not relieve the bond company of its obligations to the Commonwealth but shall only serve to stop the operation of a well or wells for which the bond company has terminated its bond or bonds* [~~Notification in writing to the department by a successor to the well operator with bond as provided in subsection (5) that said successor is assuming the obligations of this chapter as to a particular well or wells, will relieve the original permittee of responsibility under this chapter with respect to such well or wells~~].

(7) If the requirements of subsection (5) with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall then be forfeited to the department.

(8) *Collection of a bond forfeited pursuant to the provisions of this chapter may be made by the attorney for the department or in his absence by the attorney general, after notice from the director* [~~When a bond is forfeited pursuant to the provisions of this chapter, the director shall give notice to the attorney general, who shall collect the forfeiture~~].

(9) All sums received through the forfeiture of bonds shall be placed in the state treasury and credited to a special agency account to be designated as the oil and gas well plugging fund. This fund shall be available to the department and may be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for such plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

(10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of said hole confidential until such information is allowed to be released by the person obtaining such permit.

(11) For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock.

(b) Any water well used primarily for cooling purposes in an industrial process.

Section 7. KRS 353.630 is amended to read as follows:

(1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened or reopened by reason of the spacing provisions of KRS 353.610, the department shall order, after notice and a hearing, the pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening or reopening of a well for the production of oil or gas in compliance with the spacing requirements of KRS

353.500 to 353.720. The department shall require the development and operation of all pooled tracts as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.

(2) No pooling as permitted by this section shall be ordered except:

(a) After an application to drill, deepen or reopen a well for the production of oil upon the tract or within four hundred (400) feet of the tract, or after an application for a permit to drill, deepen or reopen a well for the production of gas upon the tract or within one thousand (1,000) feet of the tract has been submitted; and

(b) After a lessee or owner of an oil or gas interest in the tract shall request the pooling.

(3) No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened or reopened:

(a) Unless the pooling was requested prior to the commencement of the drilling, deepening or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract which does not contain a location at which a well for oil or gas may be drilled, deepened or reopened; and

(b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director for the payment of such owner's share of the cost of drilling, deepening or reopening the well.

(4) *Any well whose production is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order* [~~From and after the date of the pooling all operations, including the commencement, drilling or operating of a well for the production of oil or gas, upon any tract or portion thereof pooled under KRS 353.500 to 353.720 with one or more other tracts or portions thereof shall be deemed for all purposes the conduct of such operations upon which tract or portion thereof included in the pooling; and that portion of production from the well shared by all owners of each tract or portion thereof included in the pooling shall be deemed to have been actually produced from the tract or portion thereof by a well drilled thereon~~].

Section 8. KRS 353.990 is amended to read as follows:

(1) Any person who wilfully violates any of the provisions of KRS 353.050 to 353.130 or KRS 353.200 relating to the manner of drilling and casing or plugging and filling any well, or fixing the distance from wells within which mining operations may not be conducted, or any person who wilfully violates any of the terms of an order of the department allowing mining operations within a lesser distance of any well than that prescribed by this chapter shall be fined not more than *one thousand dollars ($1,000) per day for each day the violation continues* [~~two hundred dollars ($200)~~] or imprisoned in jail for not more than twelve (12) months, or both.

(2) Any person who violates any of the provisions of subsection (1) of KRS 353.150 shall be fined *one thousand dollars ($1,000)* [~~one hundred dollars ($100)~~] for each offense and in addition thereto *one thousand dollars ($1,000)* [~~one hundred dollars ($100)~~] for each *day* [~~thirty (30) days~~] the violation continues. The penalty shall be recovered in a civil action in the name of the commonwealth for the use of the county in which the well is located.

(3) Any person who violates any of the provisions of KRS 353.160 shall be fined not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] and, if the offender is a natural person, imprisoned not less than ten (10) days nor more than six (6) months. Each day that the violation continues shall constitute a separate offense.

(4) Any person who violates any of the provisions of subsection (1) of KRS 353.180 shall be fined [~~not less than one hundred ($100) nor more than~~] one thousand dollars ($1,000) *per day for each day the violation continues.*

(5) If any person violates any of the provisions of KRS 353.190 he shall be fined *one thousand dollars ($1,000)* [~~five dollars ($5.00)~~] for every twenty-four (24) hours that the violation continues.

Section 9. KRS 353.991 is amended to read as follows:

(1) Any person who violates any provision of KRS 353.570 shall be subject to a fine of not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] or imprisonment for a term not exceeding *one hundred and eighty (180)* [~~thirty (30)~~] days, or both.

(2) Any person, who continues to violate any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 after being notified in writing of the violation by the department shall be subject to a fine of not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] or imprisonment for a term not exceeding *one hundred and eighty (180)* [~~thirty (30)~~] days, or both.

(3) Any person, who does any of the following for the purpose of evading or violating KRS 353.500 to 353.720, or any rule, regulation, or order promulgated or issued under KRS 353.500 to 353.720, shall be subject to a fine of not more than *one thousand dollars ($1,000)* [~~two hundred dollars ($200)~~] or imprisonment for a term not exceeding *one hundred and eighty (180)* [~~thirty (30)~~] days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by KRS 353.500 to 353.720, or by any rule, regulation or order;

(b) Omits or causes to be omitted from a report, record, account or memorandum full, true, and correct entries and information as required by KRS 353.500 to 353.720, or by any rule, regulation, or order;

(c) Removes from this commonwealth or destroys, mutilates, alters or falsifies a report, record, account or memorandum as required by KRS 353.500 to 353.720, or by any rule, regulation, or order.

(4) Any person who knowingly aids or abets any other person in the violation of any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 shall be subject to the same penalty as that prescribed in this section for the violation by such other person.

Calendar

HB 389, HB 455, HB 505, HB 290, HB 494, HB 4, HB 320, HB 523, HB 537, HB 555, HB 561, HB 588, SB 14, HB 556, HB 334, HB 384, HB 500, HB 533, HB 534, SR 8, and **HB 524** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 128, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of the Committee Substitute to **HB 128.** Agreed.

Representative Freibert moved that **HB 128,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 98-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 128, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 128,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 89, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Amendment No. 1 to **SB 89.** Agreed.

Representative Richards moved that **SB 89,** as amended, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 89, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 89**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 284 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 284** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 284 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 284** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 508, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 508** be passed.

On the roll call the vote was yeas 76-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Freibert, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 4-Caldwell, McNutt, Patrick, Turner.

HB 508 was passed and the title agreed to.

Representative Johnson moved that the vote on **HB 508** be reconsidered. Agreed.

Representative Johnson moved the adoption of the Committee Amendment No. 1 to **HB 508**. Agreed.

Representative Johnson moved that **HB 508**, as amended, be passed.

On the roll call the vote was yeas 89-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 2-Allen, McNutt.

HB 508, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 508**, as amended, was passed be

reconsidered and said motion be placed on the table. Agreed.

HB 266, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Committee Substitute to **HB 266**. Agreed.

Representative List moved that **HB 266**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Guenthner, Moore, Robinson.

HB 266, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 266**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 39** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:26 a.m.)

Orders of the Day (continued)

HB 450 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that **HB 450** be passed.

On the roll call the vote was yeas 88-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 450 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 450** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 434** be passed.

On the roll call the vote was yeas 75-Allen, Arnold, Bennett, Blevins, Brinkley, Bronger, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Craddock, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, Kidd, Lefevers, LeMaster, Lile, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 14-Bendl, Cowan, Crupper, Cyrus, Deskins, Endicott, Gray, T. Jones, Kenton, Little, Moberly, Noe, Overstreet, Perkins.

HB 434 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 434** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 32, HB 66, HB 274, HB 322, HB 351,** and **HB 387** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 10:33 a.m.).

HB 32, HB 66, HB 274, HB 322, HB 351, and **HB 387** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions, and Communications

A meeting of the Committee on Rules was announced on adjournment, State Reception Room.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 677, by Representative Johnson, AN ACT relating to on-site sewage disposal systems.

HB 678, by Representative Gray: AN ACT relating to collective bargaining for public employes.

HB 679, by Representatives Endicott, Brinkley, and White: AN ACT relating to coal mining.

HB 680, by Representatives Endicott, Brinkley, and White: AN ACT relating to coal mining.

HB 681, by Representative Cowan: AN ACT relating to consumer protection.

HB 682, by Representative Cowan: AN ACT relating to discrimination in employment.

HB 683, by Representative Cowan, AN ACT relating to exemptions of personal property.

HB 684, by Representatives LeMaster, List, Arnold, Barrows, Bendl, Brinkley, Clapp, Cowan, Craddock, Crupper, Deskins, Donnermeyer, Farrow, Freibert, Guenthner, Hancock, Handy, Harper, Hines, Holbook, R. Jones, T. Jones, Kenton, Kidd, Long, Lundergan, Mann, McBee, Meyer, Moore, Petty, Rapier, Richards, P. Richardson, and Thomason: AN ACT relating to the equine industry.

HB 685, by Representatives O'Brien, B. Smith, and P. Clark: AN ACT relating to utility rates and services.

HB 686, by Representatives LeMaster, Curd, Gray, McNutt, Ford, Todd, Fryman, and Maggard: AN ACT relating to statutory liens.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 242, HB 277, HB 93, SB 64.**

Cities: **HB 240, HB 162, HB 374, HB 428, HB 429, HB 538, HB 608, HB 641, HR 53.**

State Government: **HB 650, HB 634, HB 285, HB 596, SCR 14, HB 558, HB 489, HB 456, HB 46, HB 445, SB 116.**

Banking and Insurance: **HB 20, HB 373, HB 424, HB 594, HB 589, HB 653.**

The Clerk announced the following Resolution has been withdrawn from Committee consideration:

State Government: **HR 6.**

Motions, Petitions, and Communications (continued)

Representative Hancock moved that **HB 256,** as amended, be taken from the Clerk's desk and placed in Orders of the Day for Tuesday, February 21.

On the roll call the vote was yeas 36-Arnold, Bendl, Blevins, Brinkley, Burnette, Clarke, Cowan, Deskins, Ellington, Farrow, Foster, Freibert, Hancock, Harper, Heleringer, Hines, Holbrook, R. Jones, LeMaster, List, Long, Lundergan, Mann, McNutt, Meyer, Moberly, Noe, Overstreet, Perkins, Petty, Rattliff, B. Richardson, P. Richardson, F. Smith, Stumbo, Thomason. Nays 39-Allen, Bennett, Bronger, Brown, Burch, Caldwell, L. Clark, Craddock, Crupper, Curd, Cyrus, Dawahare, Dunn, Endicott, Ford, Fryman, Gray, Johnson, T. Jones, Layman, Lefevers, Lile, Maggard, McElroy, Moore, Noland, Pearman, Rapier, Reinhardt, Richards, Riner, Robinson, Thomas, Todd, Turner, Van Horn, White, Williams, Yates.

The motion that **HB 256,** as amended, be taken from the Clerk's desk was rejected.

Representative Reinhardt moved the adoption of the following Legislative Citations No. 38 through No. 46. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Alexandria Fire Department and the Leadership, Alexandria, Kentucky for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hour and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt.)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Ft. Thomas Fire Department and Chief William Dieckman, Ft. Thomas, Kentucky for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Highland Heights Fire Department and Chief Steve Derrick, Highland Heights, Kentucky for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Southern Campbell Fire Department and Chief Ed Bihl, Southern Campbell, Kentucky for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Cold Springs Fire Department and Chief Mark Schroder, Cold Springs, Kentucky for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Butler Fire Department, Pendleton, Kentucky for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Gary Siebel, Chief of the Butler Fire Department, Pendleton, Kentucky for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, George McClanahan, Assistant Chief of the Butler Fire Department, Pendleton, Kentucky for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Larry McClanahan, Captain of the Butler Fire Department, Pendleton, Kentucky for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perserverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Reinhardt)

Representative Long moved the adoption of the following Legislative Citation No. 49. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Radio Station WLOU's "Wild Bunch" of Louisville, Kentucky for participating in a charity basketball game against the Shelbyville Community Center employees to raise funds for the Center. We applaud you with profound appreciation for your most noteworthy endeavors in community involvement and your sincere dedication to a worthy cause. Your humanitarian spirit, your acts of benevolence and dedication will reward and crown your efforts. This prestigious body wishes you to accept our highest commendation for a voluntary service "Well Done" in enriching the lives of your fellowman. (Sponsored by Representative Long)

Representative Ellington moved the adoption of the following Legislative Citations No. 47 and 48. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Lisa Gail Jackson, the lovely daughter of Mr. and Mrs. Ronald Jackson of McCracken County, for your service as an Active Page during the 1984 session of the Kentucky General Assembly. You have flawlessly performed the duties assigned to you, exhibiting dependability, accuracy and maturity. As you performed duties for the legislative offices and leadership, you exhibited a sense of responsibility and an appreciation of the honor accorded you by Representative Joel Ellington in nominating you for this position. Your perfect 4.0 grade point average while a student at Reidland High School, member and officers of Delta Sigma Pi Sorority, the Beta Club and Student Council, Co-Editor of the school year book, a member of the Track Team and the Band, named as Class Favorite for three years, and the Best All Around Girl of the Senior Class, as well as being Valedictorian of your class, is exemplary of your exceptional leadership abilities. Being named to Who's Who Among American High School students is especially noteworthy. Your dedication to community service, your school, and the Reidland United Methodist Church is most commendable. Your academic accomplishments are indicative of your goals, as evidenced by your receiving the Presidential Scholarship at Murry State University. Your high standards have brought honor and great pride to your school, community, and the Commonwealth of Kentucky.

This prestigious body salutes you and extends to you our very best wishes for continued success. (Sponsored by Representative Ellington)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Carla Denise Pugh, the lovely daughter of Mr. and Mrs. Travis Pugh of McCracken County, for your service as an Active Page during the 1984 session of the Kentucky General Assembly. You have flawlessly performed the duties assigned to you, exhibiting dependability, accuracy and maturity. As you performed duties for the legislative offices and leadership, you exhibited a sense of responsibility and an appreciation of the honor accorded you by Representative Joel Ellington in nominating you for this position. As a Senior at Reidland High School, we are proud of your leadership and talent demonstrated with your membership in Delta Sigma Pi Sorority, the Beta Club, the Band, the Tennis Team, and your school year book. Your dedication to community, including the Kentucky War on Drugs, your school, and the Reidland Baptist Church where you are a member and serve on the Youth Council and in the choir, is most commendable.

We salute you for the great distinction and honor that you have brought to your school, community, and the Commonwealth of Kentucky. (Sponsored by Representative Ellington)

Representative Williams moved that the Mayor of Washington, D.C. be invited to address the House on Tuesday, February 21, 1984. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be accepted. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and

Resolutions: Representative Bendl, **HB 492**; Representative Blevins, **HB 357, HR 65**; Representative L. Clark, **HB 434**; Representative Donnermeyer, **HB 434, HB 568**; Representative Foster, **HB 463**; Representative Freibert, **HB 609**; Representative Heleringer, **HB 644**; Representative McNutt, **HB 632**; Representative Morris, **HB 93**; Representative Noland, **HB 14.**

Representative Bendl filed a request to have her name withdrawn as a co-sponsor of **HB 477.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 29,** by Representative Gray:

Amend printed copy of **HB 29,** on page 1, line 3, before "*No*" by inserting "*(1)*"; and

On page 1, after line 5, by inserting "*(2) No bank shall collect a fee or charge for cashing a check issued by the treasurer of the United States.*"

Floor Amendment No. 2 to **HB 29,** by Representative Gray:

Amend printed copy of **HB 29** on page 1, line 3, before "*No*" by inserting "*(1)*"; and

On page 1, after line 5, by inserting "*(2) No bank shall collect a fee or charge for cashing a check issued by the treasurer of the United States.*"

Floor Amendment No. 8 to **HB 119,** by Representative Guenthner:

Amend printed copy of Committee Substitute to **HB 119** as follows:

On page 13, line 26, and continuing through page 14, line 21, delete Section 9 in its entirety;

And on page 13, line 26, insert the following new language:

SECTION 9. A NEW SECTION OF KRS CHAPTER 95B IS CREATED TO READ AS FOLLOWS:

Except in cities of the first class or counties containing cities of the first class, the chief of police in any city, county, or urban-county government which has established a police department shall be appointed for an indefinite term by the appointing authority and may be removed only by a majority vote of the legislative body. At least thirty (30) days before such removal shall become effective the legislative body shall by a majority vote of all its members adopt a preliminary resolution stating the reasons for his removal. The chief of police may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request. After the public hearing, if requested, and after full consideration, the legislative body by majority vote of all its members may adopt a final resolution of removal. By the preliminary resolution the legislative body may suspend the chief of police from duty, but shall in any event cause to be paid to him any unpaid balance of his compensation and compensation for the next calendar month following adoption of the preliminary resolution.

Floor amendment No. 1 to **HB 323,** by Representative Bennett:

Amend printed copy of **HB 323** on page 1, by deleting line 21 in its entirety and on page 2, by deleting line 1 in its entirety and inserting in lieu thereof the following: "*established as a committee of the state job training coordinating council, created by executive order 83-527 dated June 3, 1983 in accordance with 29 U.S.C. 1532 et seq.*"

Floor amendment No. 1 to **HB 417,** by Representative Deskins:

Amend printed copy of **HB 417** on page 1, line 14, following "compliance with" to insert "*the rule of law as enunciated by the Supreme Court of the United States in the landmark case of Roe v. Wade, 410 U.S. 113 and in compliance with*";

and on page 2, line 17, following "woman" to insert "*or in cases of rape or incest;*

and on page 3, line 3, following "device" to insert "*or an abortion pursuant to the rule of law as* *enunciated by the Supreme Court of the United States in the landmark case of Roe v. Wade, 410 U.S. 113*";

and on page 4, line 2, following "*child*" to insert "*or any other surgery*";

and on page 4, line 5, following "*abortion*" to insert "*or surgery*".

Floor Amendment No. 1 to **HB 575**, by Representative LeMaster:

Amend printed copy of **HB 575** on page 2, line 18, by deleting "*alter or abolish*" and inserting in lieu thereof the phrase "*change the organizational structure of*"; and

On page 2, line 22, by deleting "*reorganize*" and inserting in lieu thereof "*change the organizational structure of*".

The following meetings were announced:

Counties and Special Districts: 8:00 a.m., Tuesday, February 21, 1984.

Education: 8:00 a.m., Tuesday, February 21, 1984, Room 109.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 21, 1984.

On the roll call the vote was yeas 67-Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Harper, Hines, Holbrook, Johnson, R. Jones, Kenton, Layman, Lefevers, Lile, List, Long, Lundergan, Mann, McNutt, Meyer, Morris, Nett, Noe, Noland, Patrick, Pearman, Petty, Priddy, Rapier, Richards, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 7-Deskins, Ford, Guenthner, Handy, LeMaster, Moore, Perkins.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 21, 1984

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Michael Price, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative P. Richardson.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 17, 1984, be dispensed with and the same approved. Agreed.

Representative Long moved that the rules be suspended to allow action on a Legislative Citation. Agreed.

Representative Long moved the adoption of the following Legislative Citation No. 50. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds you, Whitney Hayse, the 1984 Easter Seal Child, lovely daughter of Mr. and Mrs. Greg Hayse of Shelbyville, Kentucky. The Easter Seal Society was organized in 1923, making it the oldest voluntary health organization serving the handicapped. Your being selected as the Ambassador of the Year from 15,000 Kentuckians that receive Easter Seal Services, is especially noteworthy. The State Poster Child is chosen from those recipients that have received the broad range of services that the Easter Seal Society provides, such as Physical Therapy, Occupational Therapy, Speech and Language Therapy. Your role as the Easter Seal Child will be to represent the Services of the Society and to solicit financial support for the Society. Appearing on national telethons and public campaign meetings across the state is an honor and a distinction that you will know forever.

This prestigious body salutes your, Whitney Hayse, for all of the courage and dignity that you so proudly display. (Sponsored by Representative Long)

Senate Message

Announcing passage of **SB 226, SB 230, SB 239, HB 309, HB 311,** and **HB 317.**

Introduction of Bills and Resolutions

HB 687, by Representatives Priddy and L. Clark: AN ACT relating to city or urban-county employe payroll deductions.

HB 688, by Representative Van Horn: AN ACT relating to the reporting of certain wounds.

HB 689, by Representative Van Horn: AN ACT relating to taxation.

HB 690, by Representatives Farrow, B. Smith, Crupper, Brown, P. Richardson, Hancock, Foster, Stone, Cyrus, Cline and Arnold: AN ACT relating to teachers' retirement, and making an appropriation therefor.

HB 691, by Representatives Farrow, B. Smith, P. Richardson, Crupper, Hancock, Foster, Stone, Cyrus, Cline, Brown, and Arnold: AN ACT relating to teachers' retirement, and making an appropriation therefor.

HB 692, by Representative Moberly: AN ACT relating to surface mining.

HB 693, by Representatives L. Clark and Bronger: AN ACT relating to workers' compensation.

HB 694, by Representatives L. Clark, Bennett, Priddy, Bronger, Gray, and Cyrus: AN ACT relating to skills training.

HB 695, by Representatives Moberly, Thomason, and List: AN ACT relating to unlawful taking.

HB 696, by Representative Thomason: AN ACT relating to the public service commission.

HB 697, by Representative Burch: AN ACT relating to the board of dentistry.

HB 698, by Representative F. Smith: AN ACT relating to school investigations and hearings.

HB 699, by Representatives Priddy, Guenthner, P. Clark, Bennett, Van Horn, Cyrus, Holloway, Bendl, Gray, Donnermeyer, Mann, Bronger, and Yates: AN ACT relating to collective bargaining for fire fighters and law enforcement officers.

HB 700, by Representative Cline: AN ACT relating to insurance.

HB 701, by Representative Thomas: AN ACT relating to district courts.

HB 702, by Representatives Holloway and O'Brien: AN ACT relating to exports.

HB 703, by Representative Guenthner: AN ACT relating to local development.

HB 704, by Representative Morris: AN ACT relating to motor vehicle taxation.

HR 68, by Representatives Cyrus and Holbrook: A RESOLUTION in loving memory of Jesse Hilton Stuart, one of Kentucky's most beloved sons.

HJR 69, by Representatives Blandford and Johnson: A JOINT RESOLUTION directing community college services be provided in Daviess County and a study of the feasibility of establishing a community college in that location be made.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 7.**

Appropriations and Revenue: **HB 673, HB 671, HB 684.**

Cities: **SB 81, SB 210.**

Counties and Special Districts: **SB 209.**

Energy: **HB 685.**

Health and Welfare: **HB 674.**

Judiciary-Civil: **HB 682, HB 683, HB 686.**

Judiciary-Criminal: **HB 676, SB 54, SB 141, SB 173, SJR 23.**

Labor and Industry: **HB 675, HB 681.**

Natural Resources and Environment: **HB 677, HB 679, HB 680.**

State Government: **HB 670, SB 212.**

Transportation: **HB 672.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 536, HB 605.**

Report of Committees

The Committee on Rules reported **HB 4, HB 334, HB 494, HB 505, HB 555, HB 561, HB 451, HB 467, HB 581, SB 35,** and **HB 463** have been posted for passage in Orders of the Day, February 22, 1984.

The Committee on Rules reported **HB 33** and **HB 87** have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Appropriations and Revenue reported **HB 93, HB 568,** and **SB 64** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 93, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 143A.010 is amended to read as follows:

(1) "Department" means the department of revenue.

(2) "Natural resource" means all forms of minerals including but not limited to rock, stone, limestone, shale, gravel, sand, clay, [~~fluorspar, zinc,~~] natural gas, and natural gas liquids which are contained in or on the soils or waters of this state. For purposes of this chapter, "natural resource" does not include coal and oil which are taxed under KRS 143.020 and 137.120.

(3) "Severing" or "severed" means the physical removal of the natural resource from the earth or waters of this state by any means; however, "severing" or "severed" shall not include the removal of natural gas from underground storage facilities into which the natural gas has been mechanically injected following its initial removal from the earth.

(4) "Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind engaged in the business of severing and/or processing natural resources in this state for sale or use. In instances where contracts, either oral or written, are entered into whereby persons, organizations or businesses are engaged in the business of severing and/or processing a natural resource but do not obtain title to or do not have an economic interest therein, the party who owns the natural resource or has an economic interest is the taxpayer.

(5) "Gross value" is synonymous with gross income from property as defined in section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense (whether or not by common carrier) incurred in transporting a natural resource shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For natural resources severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For natural resources severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the natural resource is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of the natural resource shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for natural resources of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for natural resources of similar grade and quality.

(e) If severed natural resources are purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(f) If severed natural resources are purchased for the purpose of processing and consumption, the gross value is the fair market value of processed natural resources of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the natural resource.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied in KRS 143A.020, royalties, sales commissions, or any other expense.

(6) "Processing" shall include but not be limited to breaking, crushing, cleaning, drying, sizing, or loading for shipment. "Processing" shall not include the act of unloading or loading for shipment natural resources that have not been severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky.

(7) "Related parties" means two (2) or more persons, organizations or businesses owned or controlled directly or indirectly by the same interests.

(8) "Economic interest" for the purpose of this chapter is synonymous with the economic interest ownership required by Internal Revenue Code, section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(9) "Charges for transporting" or "transportation expense" shall mean:

(a) The amount paid by a taxpayer to a third party for transporting to a customer natural resources taxed in KRS 143A.020;

(b) The cost incurred by a taxpayer using his own facilities in transporting to a customer natural resources taxed under KRS 143A.020;

(c) In no case shall transportation expenses include the cost of acquisition, improvements, or maintenance of real property or the cost of loading or unloading facilities.

Section 2. KRS 143A.030 is amended to read as follows:

The taxes imposed in KRS 143A.020 do not apply to *fluorspar, lead, zinc and barite severed for any purposes or to* rock, limestone or gravel used for privately maintained but publicly dedicated roads or limestone when sold or used by the taxpayer for agricultural purposes so as to qualify for exemption from sales and use taxes as provided in KRS 139.480.

HB 568, AN ACT relating to education, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statutory provisions to the contrary, effective for school years beginning on or after July 1, 1984, the board of education of each school district shall levy for general school purposes an ad valorem tax rate of fifteen cents (15) or the maximum rate supported by the common school district power equalization program in that or the next subsequent school year as provided for in KRS 157.555 and 157.560, whichever is greater.

(2) No school district shall be eligible for the state power equalization support provided for in KRS 157.545 to 157.575 during any school year in which the board of education of such school district fails to levy the tax rate required in subsection (1) of this section.

(3) A voted general tax rate, as provided for in KRS 157.440, shall be credited toward the tax rate required in subsection (1) of this section.

Section 2. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be

produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in *subsection (1) of Section 1 of this Act* [~~KRS 157.565~~]. In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in *subsection (1) of Section 1 of this Act* [~~KRS 157.565~~].

(b) In the event that an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year. . .", referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) No district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate within the limits imposed in subsection (2) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in *subsection (1) of Section 1 of this Act* [~~KRS 157.565~~], until the district board of education has complied with the provisions of subsection (10) of this section.

(4) The superintendent of public instruction shall certify to each district board of education, by June 30 of each year, the following:

(a) The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(c) The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 , and the amount of revenue expected to be produced by each.

(5) Upon completion of action on property assessment data the department of revenue shall submit to the superintendent of public instruction, certified property assessment data as required in KRS 133.125.

(6) Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the state board of education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(7) The budget shall be disapproved by the state board of education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval.

In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the state board of education for its final approval.

(8) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the state board of education.

(9) Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(10) (a) A district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate within the limits of subsection (2) of this section which exceed the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the

taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;

2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year and the revenue expected to be produced by those rates;

3. The compensating general, voted general, and voted building tax rates and the revenue expected from them;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for such testimony.

(11) (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in *subsection (1) of Section 1 of this Act* [~~KRS 157.565~~], levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in *subsection (1) of Section 1 of this Act* [~~KRS 157.565~~], which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Section 3. KRS 157.565, Procedure for increasing tax rate to maximum support of power equalization -- Substitution of revenue from permissive taxes to qualify for matching funds where tax rate not sufficient, is repealed.

Section 4. Whereas, tentative allotments of the state power equalization funds to which each school district is entitled are calculated prior to July 1 for each school year; whereas, the tentative allotments of state power equalization funds are distributed to school districts on a quarterly basis beginning July 1 of each school year, and whereas the provisions of this Act will effect the determination and distribution of such funds, an emergency is declared to exist, and this Act shall become effective upon its passage, and approval by the Governor.

SB 64, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in such property, unless otherwise provided by law shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1, 1962, and January 1 of each year thereafter. It shall be the duty of all persons owning or having any interest in any property taxable in this state to list or have listed such property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer who has a reasonable excuse for not listing his property before the property valuation administrator or his deputy may appear before any person authorized to administer an oath and make the necessary affidavit required by the schedule as to the value of his property and may then return the schedule to the property valuation administrator. This shall be a compliance with the law in his particular case.

(3) Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein, and it shall be assessed without reference to conflicting title. If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person without designating them by name.

(5) Beginning in the year 1951, all real property exempt from taxation by section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of such tax-exempt property, but such property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the department of revenue within thirty (30) days of the close of the taxing period. This inventory shall be in the form prescribed by the department of revenue. *The department of revenue shall make an annual report itemizing all exempt properties to the governor and the legislative research commission within sixty (60) days of the close of the taxing period.*

(6) Each property valuation administrator, under the direction of the department of revenue, shall review annually all real property listed with him under subsection (5) of this section and claimed to be exempt from taxation by section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all such property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990 (2).

The Committee on Appropriations and Revenue report **HJR 8** with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee on Counties and Special Districts reported **HB 182,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 182, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 71.060 is amended to read as follows:

(1) [~~Any jailer may appoint not more than two (2) deputies, and, with the approval of the fiscal court, may appoint additional deputies at any time during the jailer's term of office.~~] The jailer shall be liable on his official bond for the conduct of his deputies. The deputies shall have all the powers and be subject to the same penalties as the jailer. [~~They may be removed at any time by the jailer.~~]

(2) *The jailer shall be responsible for the appointment and removal of jail personnel. The fiscal court may establish education and training requirements and other qualifications reasonably related to an individual's ability to fill the position of deputy jailer.* [~~Any jailer may appoint a respectable woman to care~~

~~for and have supervision over the female prisoners in the jail, subject to the orders of the jailer. The woman so appointed shall be called jail matron and shall receive a salary to be paid in the same manner as deputy county jailers. With the approval of the fiscal court, the jailer may appoint additional matrons at any time during the jailer's term of office.~~]

SECTION 2. A NEW SECTION OF KRS CHAPTER 71 IS CREATED TO READ AS FOLLOWS:

If in any county there is no jail, Section 1 of this Act shall not be applicable and the jailer shall not be entitled to nor shall he appoint any jail personnel.

The Committee Amendment No. 1 to **HB 182** is as follows:

Amend printed copy of **HB 182**, on page 1, line 13, after the word "*court*" by deleting the remainder of line 13 and inserting in lieu thereof the words "*shall establish education and training requirements as permitted by regulations adopted pursuant to KRS 441.011*"; and

On page 1, by deleting lines 14 and 15 in their entirety; and

On page 1, line 16, by deleting the word "*jailer*".

The Committee on Labor and Industry reported **HB 89** and **HB 363** with the expression of opinion that the same should pass. Read at length for the firts time and ordered placed in the Calendar.

HB 89, AN ACT relating to purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Purchaser" shall mean any governmental agency, business, nonprofit organization or any individual or group funded, in whole or in part, by public funds.

(2) "American product" shall mean any product assembled in the United States or Canada which does not contain more than fifty percent (50%) component parts imported from outside the borders of the United States or Canada.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Purchasers shall purchase only American products unless the purchaser can show, in writing, to the chief purchasing officer, that American products are unavailable or cannot be acquired within a reasonable time to meet the purchaser's requirements.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

This Act shall not apply to medical or scientific products; however, American medical or scientific products shall be purchased when possible.

Section 4. KRS 45A.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or be imprisoned not less than one (1) year nor more than five (5) years, or both such fine and imprisonment. Any firm, corporation, or association which violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(2) Any person who violates any provisions of KRS 45A.330 to 45A.340, shall be guilty of a Class B misdemeanor, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.

(3) Any person who willfully violates this code shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or by both fine and imprisonment in the discretion of the jury.

(4) Any employe or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm or corporation, offering, bidding

for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(5) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, to any employe or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(6) Criminal penalties for violations of the laws which are in existence on January 1, 1980 shall not be impaired.

(7) *Except for Sections 1, 2 and 3 of this Act,* this section shall not apply to any officer or employe of a political subdivision, including a school district, nor to the procurement activities of any such political subdivision unless such political subdivision has elected to operate under KRS 45A.345 through 45A.460.

(8) Any person who violates Section 2 of this Act shall be guilty of a class D felony.

HB 363, AN ACT relating to prevailing wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of labor;

(b) "Department" means department of labor;

(c) "Wages" include any compensation due to an employe by reason of his employment, such compensation to include salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses and any other similar advantages agreed upon by the employer and the employe or provided to employes as an established policy; such wages to be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency or firm who employs an employe and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employe; and

(e) "Employe" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345 and 337.385 to 337.405 unless the context requires otherwise:

(a) "Employe" is any person employed by or suffered or permitted to work for an employer, but shall not include:

(i) Any individual employed in agriculture;

(ii) Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

(iii) Any individual employed by the United States;

(iv) Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

(v) Any individual classified and given a certificate by the commissioner of labor showing a status of learner, apprentice, handicapped worker, sheltered workshop employe, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of labor. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

(vi) Employes of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employe is the parent, spouse, child, or other member of his employer's immediate family;

(vii) Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

(viii) Any individual engaged in the delivery of newspapers to the consumer;

(ix) Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18 provided that the commissioner of personnel shall have the authority to prescribe by administrative regulation those emergency employes, or others who shall receive overtime pay rates as necessary for the efficient operation of government and the protection of affected employes;

(b) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employe from a guest, patron or customer for services rendered;

(d) "Tipped employe" means any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20.00) per month in tips;

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works *project* by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000) [~~in 1982 and adjusted annually on July 1 thereafter according to the change in the Consumer Price Index released by the U.S. Department of Labor, Bureau of Labor Statistics~~];

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employes of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" means the county where the physical work upon public works is performed, except if there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work.

2. "Locality" with respect to contracts advertised or awarded by the department of transportation of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the Commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work [~~except for buildings constructed as institutions of learning~~] constructed under contract with any public authority. [~~However, the provisions of this section shall not apply to construction conducted by a city, county, urban-county government or school district unless such construction is financed with fifty percent (50%) or more of state funds.~~]

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 2. KRS 337.505 is amended to read as follows:

For the purpose of KRS 337.505 to 337.550, the term "prevailing wage" for each classification of laborers, workmen, and mechanics engaged in the construction of public works within the Commonwealth of Kentucky, *shall include* [~~means the sum of~~]:

(1) The basic hourly rate paid or being paid subsequent to the labor commissioner's most recent wage determination to the majority of laborers, workmen, and mechanics employed in each classification of construction upon reasonably comparable construction in the locality where the work is to be performed; such rate shall be determined by the commissioner in accordance with paragraphs (a), (b), and (c) of subsection (3) of KRS 337.520; in the event that there is not a majority paid at the same rate, then the basic hourly rate of pay shall be the average basic hourly rate which shall be determined by adding the basic hourly rates paid to all workers in the classification and dividing by the total number of such workers, and

(2) An additional amount per hour equal to the hourly rate of contribution irrevocably made or to be made by an employer on behalf of employes within each classification of construction to a trustee or to a third person pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the employes affected, for the following fringe benefits: Medical or hospital care, pensions on retirement, death compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, defraying costs of apprenticeship or other similar programs, or other bona fide fringe benefits, but only where the employer is not required by other federal, state or local law to provide any of such benefits: Provided, *that the obligation of the employer to make payments in accordance with this section may be discharged by the making of payments in cash, by the making of contributions of a type referred to in this section, or by the assumption of an enforceable commitment to bear the costs of a plan or program of a type referred to in this section, or any combination thereof, where the aggregate of any such payments, contributions, and costs is not less than the rate of pay described in subsection (1) of this section plus the amount referred to in* [~~said additional amount may, at the discretion of the employer, be paid either in cash to the employe or by contributions for fringe benefits, or partly in cash and partly by such contributions, it being the intention of this subsection to recognize fringe benefits as a part of the prevailing wage rate where made in accordance with~~] this subsection.

Section 3. KRS 337.550 is amended to read as follows:

(1) Any laborer, workman, or mechanic employed on public works may file a complaint of any violation of any provision of KRS 337.505 to 337.550 with the department. The department shall assist him in the collection of claims of wages due him and shall also assist to the fullest extent in the administration and enforcement of KRS 337.505 to 337.550. The commissioner shall investigate and enforce the provisions of KRS 337.505 to 337.550 to the fullest and shall bring all actions to collect wages due any laborer, workman, or mechanic and shall take action against any contractor or subcontractor to restrain violations of KRS 337.505 to 337.550. *If the commissioner determines, after an initial investigation is conducted, that any contractor or subcontractor has violated any of the provisions of KRS 337.505 to 337.550, that contractor or subcontractor shall be notified, in writing, of said determination. Within thirty (30) days of the date of the violation notification, the contractor or subcontractor may request that an evidentiary hearing be held by the commissioner or his authorized representative. The hearing shall be held in accordance with administrative regulations and rules promulgated hereafter.* If any contractor or subcontractor is found to be in violation of any provisions of KRS 337.505 to 337.550, *as a result of the evidentiary hearing, that contractor or subcontractor shall be afforded the same right of review as outlined in KRS 337.310. When the commissioner's decision becomes final, and nonappealable,* [~~then~~] the commissioner shall inform the *public authority after notification pursuant to KRS 337.510 that such contractor or subcontractor is ineligible to bid on public works* [~~secretary for finance and administration of the Commonwealth of Kentucky, and the secretary for finance and administration shall hold such contractor or subcontractor ineligible to bid on public works~~] until such time as that contractor or subcontractor is in substantial compliance as determined by the commissioner.

(2) A laborer, workman, or mechanic may by civil action recover any sum due him as the result of the failure of his employer to comply with the terms of KRS 337.505 to 337.550. The commissioner may also bring any legal action necessary to collect claims on behalf of any or all laborers, workmen, or mechanics. No employer shall take any punitive measure or action against an employe because such employe has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under KRS 337.505 to 337.550. The commissioner shall not be required to pay the filing fee, or other costs, in connection with such action.

Calendar

HB 160 and **HB 161** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Williams moved the adoption of the following Legislative Citation No. 51. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Marion Shepilov Barry, Jr., Mayor of Washington, D.C. as this prestigious body welcomes you to the Commonwealth of Kentucky. Your educational badkground comprising of numerous degrees from universities all over the United States is most noteworthy and is exemplary of your desire to make our world better. Your achievements and leadership as the delegate to the Democratic National Convention, a member of the Washington, D.C. School Board, serving a term as President, a member of City Council, working with job training and placements for Blacks is indicative of your concern and goals for all Americans. Great stability and wisdom has earmarked your life as you reflect your philosophy: "If there is a single idea which guided and inspired me in both private and public life it is the quest for the uniquely American principle of justice and fair play for all men and women."

This renowned body extends best wishes, health and success in your future endeavors as you continue your service to all mankind. (Sponsored by Representative Williams)

Pursuant to agreement on Friday, February 17, the Mayor of Washington, D.C., The Honorable Marion Shepilov Barry, Jr., addressed the House.

Orders of the Day

HB 98, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 98.** Agreed.

Representative Bendl moved that **HB 98,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 78-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 13-Allen, Crupper, Deskins, Endicott, Ford, Fryman, Layman, Morris, Noland, Patrick, Robinson, B. Smith, Turner.

HB 98, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 98,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 309, HB 311,** and **HB 317** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:54 p.m.)

HB 309, HB 311, and **HB 317** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 371 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and place d upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 371** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 371 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 371** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 427 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved that **HB 427** be passed.

On the roll call the vote was yeas 91-Allen, Barrows, Bendl, Blandford, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 427 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 427** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 462 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Van Horn moved that **HB 462** be passed.

On the roll call the vote was yeas 86-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 6-Allen, Fryman, Holloway, Patrick, Reinhardt, Turner.

HB 462 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 462** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 488 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 488** be passed.

On the roll call the vote was yeas 91-Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 488 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 488** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 575, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Floor Amendment No. 1 to **HB 575**. Agreed.

Representative LeMaster moved that **HB 575**, as amended, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 0.

HB 575, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 575**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 579 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 579** be passed.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 579 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 579** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

A meeting of the Committee on Rules was announced on adjournment, State Reception Room.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 705, by Representatives McBee, Donnermeyer, and R. Jones: AN ACT relating to planning and zoning.

HB 706, by Representatives O'Brien, Kenton, and Freibert: AN ACT relating to the Kentucky historical society.

HB 707, by Representatives LeMaster, List, Lundgergan, Kenton, Freibert, and Van Horn: AN ACT relating to urban-county government.

HB 708, by Representatives Kenton, Moberly, Meyer, Van Horn, and T. Jones: AN ACT relating to interest on judgments.

HB 709, by Representative Kenton: AN ACT relating to public buildings.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Criminal: **HB 189, HB 572, HB 235, HB 631, HB 676.**

Education: **HB 76, HB 607.**

Natural Resources and Environment: **HB 662, HB 663, HB 664, HB 601.**

Report of Committees

The Committee on Health and Welfare reported **HB 157** with Committee Substitute attached thereto, **HB 361**, and **HB 426** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 157, AN ACT relating to health facilities and services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The Kentucky health facilities and health services certificate of need and licensure board shall deny a certificate of need to provide home health care, as defined in KRS 304.17-312, or a license to operate as a home health agency as defined in KRS 304.17-312, to any long-term care facility licensee, as defined in KRS 216.535, which in the last twelve (12) months:

(1) Has received a citation under KRS 216.555 for any violation and has not filed and complied with a plan of correction approved by the cabinet for human resources in response to such citation; or

(2) Has been assessed a civil penalty for a type A or type B violation under KRS 216.557.

The Committee Substitute to **HB 157** is as follows:

HB 157, AN ACT relating to health facilities and services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky health facilities and health services certificate of need and licensure board shall deny a certificate of need to provide home health care, as defined in KRS 304.17-312, or a license to operate

as a home health agency as defined in KRS 304.17-312, to any long-term care facility licensee, as defined in KRS 216.535, which in the last twelve (12) months:

(a) Has received a citation from the cabinet for human resources under state law for a type A or type B violation unless such citation has been reversed by a hearing officer appointed pursuant to 900 KAR 2:020 or overturned by a court of competent jurisdiction; or

(b) Has been assessed a civil penalty by the cabinet for human resources under state law for a type A or type B violation unless such penalty has been reversed by a hearing officer appointed pursuant to 900 KAR 2:020 or overturned by a court of competent jurisdiction; or

(c) Has received a statement of deficiency from the cabinet for human resources and has not filed or complied with a plan of correction approved by the cabinet for human resources.

(2) The cabinet for human resources shall not contract with any long-term care facility licensee for the provision of any services funded under the provisions of KRS 205.455 through 205.465 or under title III of the older american's act of 1967, and any subsequent amendments related thereto, when such licensee has committed an act or omission covered by paragraph (a), or (b), or (c) of subsection (1) of this section.

HB 361, AN ACT relating to physician assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Board" means the state board of medical licensure;

(2) "Physician assistant" means a skilled person who is approved by the board to assist a physician or a group of physicians in the provision of medical care services under the supervision and direction of the physician or a group of physicians. A physician assistant may provide any medical services delegated to the physician assistant by the supervising physician when such services are within his skills, form a usual component of the physician's scope of practice, and are provided under the supervision and direction of a licensed physician approved by the board.

(3) "Approved program" means a program for the education and training of physician assistants that has been approved or has received preliminary approval by the american medical association committee on allied health education and accreditation;

(4) "Supervising physician" means a physician or group of physicians licensed to practice medicine and surgery in the Commonwealth who register with the board and who accept responsibility for the supervision of services rendered by physician assistants;

(5) "Supervision" means the ability of the physician to provide direction or exercise control over the services of the physician assistant. Supervision shall require that there is adequate access to oral communication between the physician assistant and supervising physician;

(6) "Advisory council" means a council that advises the board on matters related to physician assistants;

(7) "Trainee" means a person who is currently enrolled in an approved program;

(8) "Proficiency examination" means an examination approved by the board for the certification of physician assistants, and may include but is not limited to those examinations administered by the national commission on certification of physician's assistants or other body established for such purpose that is recognized by the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board shall establish, with recommendations from the advisory council, rules and regulations, not inconsistent with this Act or any other provisions of the Kentucky Revised Statutes, for the certification and practice standards of physician assistants, and shall issue certificates to physician assistants meeting the established standards for certification. The board shall have the right to suspend or revoke a certificate when a physician assistant fails to maintain the established standards for certification or is in violation of the rules and regulations established by the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The physician assistant shall be supervised by, and responsible to, a practicing physician licensed in accordance with the provision of KRS 311.530 to 311.620 and 311.990.

(2) Physician assistant services shall be provided in those facilities in which the supervising physician regularly provides services.

(3) The services rendered by the physician assistant shall be limited to the same field of practice for

which the supervising physician is qualified.

(4) The supervising physician shall file with the board an application to utilize a physician assistant. In cases where a group of physicians will supervise a physician assistant the names of all supervisory physicians shall be included on the application. The names of alternate supervising physicians shall also be listed. In no instance may a physician supervise more than two (2) physician assistants at any one time.

(5) The physician assistant shall have successfully completed an approved program and have successfully completed the proficiency examination.

(6) The rules and regulations regarding the certification of physician assistants shall be designed to determine that each physician assistant has the necessary knowledge and skill to perform the duties assigned to him in a safe and competent manner. In this regard, the board may determine whether any applicant for certification as a physician assistant possesses sufficient education, experience, or training in health care which may be accepted in lieu of the qualifications required for certification under subsection (5) of this section as long as such applicants shall have successfully completed the proficiency examination for physician assistants.

(7) The board may conduct an investigation necessary to determine the eligibility of an applicant for certification. An applicant and his supervising physician may be required to furnish additional documentation and information if necessary to evaluate the applicant's qualifications.

(8) The board shall promulgate regulations governing the issuance of temporary certificates of approval to applicants who successfully completed an approved program for the education and training of physician assistants but have not yet passed the proficiency examination.

(9) The board may promulgate regulations to assess the continued competence of a physician assistant.

(10) The board may, by regulation, prescribe a reasonable schedule of fees for the issuance and renewal of certificates. All fees, charges, other monies collected by the board shall be paid into the state treasury and credited to a trust and agency fund of the board to be used for the purpose of carrying out the provisions of this Act.

(11) Trainees may carry out medical activities when such activities are rendered within the scope of an approved program. An individual enrolled in a training program for physician assistants may function only under direct supervision of the preceptor physician or a designated alternate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this Act shall be construed to prohibit the employment of physician assistants by a medical care facility when such physician assistants function under the supervision and direction of a physician or group of physicians.

(2) The physician assistant certificate shall be displayed prominently in the office, or any facility in which the physician assistant may function. Duplicate certificates may be obtained from the board.

(3) The physician assistant shall wear appropriate identification, such as a name tag, using the term "physician assistant."

(4) Physician assistant trainees rendering patient care as part of an approved program shall wear appropriate identification, such as a name tag, using the term "physician assistant student."

(5) Nothing in this Act shall be construed as relieving the physician of the professional or legal responsibility for the care and treatment of persons attended by the physician or the physician assistant under the physician's supervision.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A person shall not perform the duties of a physician assistant, hold himself out as a physician assistant, or use a title or designation indicating he is a physician assistant except as authorized by this Act and the rules and regulations promulgated pursuant to this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) There is established an advisory council which shall advise the board on administrative regulations pertaining to the roles, functions, and certification of the physician assistant. The council shall consist of nine (9) members appointed by the governor to four (4) year terms, except that initial terms shall be appointed as follows: three (3) for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.

(2) Membership of the council shall include three (3) licensed and practicing physicians, two (2) of whom employ a physician assistant, considered from a list of three (3) names for each position submitted by the Kentucky medical association, one (1) hospital administrator considered from a list of three (3) names submitted by the Kentucky hospital association, one (1) representative of the Kentucky primary care association considered from a list of three (3) names submitted by the Kentucky primary care association, one (1) practicing registered nurse considered from a list of three (3) names submitted by the Kentucky nurse's association, two (2) physician assistants considered from a list of three (3) names for each position submitted

by the Kentucky academy of physician assistants, and one (1) consumer representative.

(3) The advisory council shall, within three (3) months after the appointment of the initial members of the council, develop and recommend to the board guidelines relating to the certification of physician assistants.

(4) The council shall advise the board on revising physician assistant certification standards and practice as national standards change, consistent with the trends and need for health manpower in the Commonwealth of Kentucky.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A certified physician assistant is prohibited from any of the following under this Act:

(1) Any act which requires interpretation or judgment in determining the refractive states of the human eye;

(2) The prescribing of contact lenses for the human eye, or the doing of any act in the examination, fitting or adapting of contact lenses to the human eye which requires interpretation or judgment;

(3) The prescribing of ocular exercises, visual training or orthoptics;

(4) Practice of optometry as defined in KRS 320.210;

(5) Practice of podiatry as defined in KRS 311.380;

(6) Practice of chiropractic as defined in KRS 312.015;

(7) Practice of dentistry as defined in KRS 313.010;

(8) Practice of nursing as defined in KRS 314.011;

(9) Practice of pharmacy as defined in KRS 315.010.

Section 8. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(8) to (11):

(1) "Board" means the state board of medical licensure;

(2) "President" means the president of the state board of medical licensure;

(3) "Secretary" means the secretary of the state board of medical licensure, or any assistant secretary thereof appointed as such by the board;

(4) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(5) "Limited license" means a license to practice medicine in a specific institution to the extent indicated in said license, except that no person who is the holder of a limited license on September 1, 1972, shall be restricted to an institutional practice without his consent;

(6) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears (from verified information in the application) to the secretary to be qualified and eligible therefor;

(7) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days.

(8) Except as provided in subsection (9) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities.

(9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the department for human resources, *the practice of a physician assistant as defined in Section 1 of this Act,* the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the department for human resources by KRS Chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

(10) "Physician" means a doctor of medicine or a doctor of osteopathy.

(11) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 9. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50.00) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand

dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the department for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony;

(b) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who performs an abortion upon an unemancipated minor or incompetent woman either with knowledge or in reckless disregard of her minority or incompetency and who intentionally, knowingly or recklessly fails to conform to any requirement of KRS 311.732 shall be guilty of a Class D felony.

(13) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(14) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(15) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(16) Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(17) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(18) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(19) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(20) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(21) Any administrator, officer or employe of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(22) Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200).

(23) Any person who violates the provisions of KRS 311.820 is guilty of a Class A misdemeanor.

(24) Any person who violates Section 5 of this Act shall be guilty of a Class A misdemeanor.

HB 426, AN ACT relating to disabled children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 202C IS ESTABLISHED AND A NEW SECTION IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Administrator" means a person licensed under KRS Chapter 216A and the chief executive officer of a health care facility;

(2) "Advisory committee"means the advisory committee on treatment of children with disabilities established under Section 2 of this Act.

(3) "Born" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such separation breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definitive movement of voluntary muscles;

(4) "Cabinet" means the cabinet for human resources;

(5) "Child" means any human being who has been born and who is less than eighteen (18) years of age;

(6) "Consumer" means a person with a disability or a member of the immediate family of a person with a disability;

(7) "Disability" means:

(a) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one (1) or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities which substantially limit one (1) or more major life activities;

(8) "Health care facility" means:

(a) Any health facility or health service regulated or licensed by the Kentucky health facilities and health services certificate of need and licensure board; and

(b) Facilities operated as a part of the practice of a physician or other licensed health care professional, whether practicing in an individual capacity or within the legal structure of any partnership, medical or professional group;

(9) "Health care professional" means a person licensed by the state board of medical licensure, Kentucky board of nursing, Kentucky board of pharmacy or the state board of physical therapy;

(10) "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

(11) "Physician" means a person licensed to practice under KRS Chapter 311, except that for the purposes of Section 13 of this Act, it also includes persons holding valid licenses to practice medicine issued by the authority of another state or country; and

(12) "Treatment" means medical, surgical or nursing treatment or care, and includes diagnostic and other procedures to assess the nature and extent of disability and to determine the appropriate medical, surgical or nursing treatment or care for such disability.

SECTION 2. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) An advisory committee on treatment of children with disabilities is created which shall act in the interests of and assure the protection of those with all disabilities, whether of high or low incidence.

(2) The advisory committee shall have fifteen (15) members, with three (3) year staggered terms, who shall be appointed as follows:

(a) Two (2) members appointed by the Kentucky medical association, who shall be pediatricians;

(b) Two (2) members appointed by the Kentucky nurses association, who shall be advanced registered nurse practitioners designated as pediatric nurses;

(c) Two (2) members appointed by the secretary of the cabinet for human resources, who shall not be related to each other and who shall be selected from applications of consumers submitted in response to publicity about the advisory committee;

(d) One (1) member appointed by the Kentucky hospital association;

(e) One (1) member appointed by the Kentucky bar association, who shall be an attorney with an interest or direct experience in this field of law;

(f) One (1) member appointed by the governor;

(g) One (1) member appointed by the speaker of the house of representatives;

(h) One (1) member appointed by the president pro tempore of the senate;

(i) One (1) member appointed by the Kentucky association for retarded citizens;

(j) One (1) member appointed by the Kentucky right to life association;

(k) One (1) member appointed by the early education funding program, inc., to represent the interests of children with downs syndrome;

(l) One (1) member appointed by the spina bifida association of central Kentucky, inc.;

In the event that any of the appointing organizations cease to exist, the advisory committee shall designate another organization with similar interests to make appointments.

(3) The advisory committee shall elect a chairman from among their own members annually.

(4) The advisory committee shall meet at least semiannually and may be convened at the call of the chairman of the advisory committee or any three (3) members of the advisory committee.

(5) Members of the advisory committee shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties in accordance with state law and regulations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

The advisory committee on treatment of children with disabilities shall:

(1) Designate or designate and prepare the information packet or handbook described in Section 6 of the Act within one hundred eighty (180) days of the effective date of this Act and thereafter shall review and revise it periodically, to include information about all disabilities, whether of high or low incidence;

(2) Recommend to the cabinet the promulgation and revision of regulations for implementation and enforcement of this Act;

(3) Review the cabinet's provisional designation of expertise centers and expert consultants and shall make the final designation of such centers and consultants;

(4) Establish categories of disabilities for the purpose of reports and designations of expertise centers and expert consultants under this Act; and

(5) Monitor the implementation and enforcement of this Act and make recommendations to appropriate agencies and to the Kentucky general assembly as it deems appropriate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) Annually, the cabinet shall provisionally designate one (1) or more medical centers, institutions or organizations, with their consent, as "expertise centers" or at least one (1) physician, with his consent, as an "expert consultant", for each category of disability.

(a) Each expertise center shall be a facility which treats a significant number of patients with the particular disability, a facility which conducts research about that disability or a facility which maintains a clearinghouse for information concerning the treatment of that disability. Expertise centers need not be located within Kentucky.

(b) Each expert consultant shall be a health care professional with expertise in the treatment of the specified disability.

(2) Annually the cabinet shall mail a list of all designated expertise centers and expert consultants, with the disability category for which each is designated, and a description of how to contact the centers and consultants, to all persons licensed to practice medicine in the Commonwealth of Kentucky. The cabinet shall also make the list available to any citizen who requests it.

(3) Thirty (30) days before it makes a provisional designation of expertise centers and expert consultants for each year, the cabinet shall solicit recommendations from organizations representing the interests of physicians, nurses, hospitals, medical social services providers, rehabilitation services providers and providers and consumers concerned with various disabilities, as well as from the advisory committee on treatment of children with disabilities.

(4) When its provisional designations are made, the cabinet shall inform the advisory committee which shall, within thirty (30) days, review and make the final designations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) Every health care facility in which any child is born or subsequently develops a disability and every health care facility to which any child is first admitted after being born with or subsequently developing a disability (when the child is born or the disability is diagnosed outside a health care facility) shall report the nature of the disability to the cabinet for human resources. No such report shall contain the name or other information identifying the particular child.

(2) The cabinet shall issue an annual public report specifying the incidence and nature of such disabilities in categories established by the advisory committee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

Every health care facility in which any child is born with or subsequently develops a disability and every health care facility to which any child is first admitted after being born with or subsequently developing a disability (when the child is born or the disability is diagnosed outside a health care facility) shall promptly provide to the parent or guardian of such child the information packet or handbook designated by the advisory committee, (with supplemental information, provided in person whenever possible), which shall include, but not be limited to:

(1) A general description of the potential abilities of children with disabilities and of the treatment available to help them;

(2) The identity of public and private agencies and organizations available to provide assistance, information and support in the care of such a child at home, and of alternatives such as foster care and adoption, including a general description of the services they provide;

(3) The manner in which such agencies and organizations might be contacted, including an offer to contact them on behalf of the parent or guardian;

(4) Financial and other governmentally provided benefits available to children with disabilities and their families, including, but not limited to, education and benefits under the Social Security Act; and

(5) The information that the health care facility has a legal duty to report should the parents, guardian or health care professionals fail to provide nutritional sustenance or treatment or direct that no sustenance or treatment be provided when such sustenance or treatment is necessary to sustain life or is provided other similarly situated children, with or without disabilities, that is necessary to correct or ameliorate a life-threatening condition or to avoid further increase in disability.

SECTION 7. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) It shall be illegal to fail to provide, to refuse to provide or to deny nutritional sustenance necessary to sustain life or treatment provided to other similarly situated children, with or without disabilities, necessary to correct or ameliorate a life-threatening condition or to avoid further increase in disability in a child who is born with or who subsequently develops a disability.

(2) Every health care facility providing services to children shall institute a system to assure mandatory reporting within four (4) hours of children not receiving such sustenance or treatment. This system shall include a requirement that, at the commencement of employment and at least semiannually thereafter, all health care professionals and administrators associated with units providing services to children be informed of their duty to report any such failure, their right to make such a report free from any disciplinary action and the manner in which such a report might be made.

(3) No person shall be disciplined, demoted or involuntarily transferred for filing or cooperating in the filing of a report under this Act. For the purpose of any action for damages arising from disciplinary action against, demotion or involuntary transfer of, a person who has filed a report, it shall be a rebuttable presumption that the personnel action was taken because such a report was filed, if the personnel action occurs within two (2) years of the filing of the report.

SECTION 8. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) Every health care professional and administrator working in a health care facility which provides services to children shall report or cause a report to be made to the cabinet on the cabinet's toll free child abuse hotline or by any other means within four (4) hours of their knowledge of every instance in which any child, who is born with or subsequently develops a disability, fails to receive nutritional sustenance that is necessary to sustain life or to receive treatment provided to other similarly situated children, with or without disabilities, that is necessary to correct or ameliorate a life-threatening condition or to avoid further increase in disability.

(2) Any person who files such a report or causes such a report to be filed in good faith shall have immunity from any liability, civil or criminal, which might otherwise attach to making the allegations contained in the report.

SECTION 9. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving a report that a child is not receiving sustenance or treatment contrary to Section 7 of this Act, the cabinet shall initiate a prompt investigation, take necessary action and offer protective services toward safeguarding the welfare of the child. As part of its investigatory authority, the cabinet may

arrange for an independent medical examination of the child, examine the child's medical records and interview the child's parents and health care professionals.

(2) Within twelve (12) hours of the time the cabinet receives each such report, it shall contact and consult with an appropriate designated expertise center or expert consultant.

SECTION 10. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) The following persons shall have access to reports and records described in this Act, but only in furtherance of purposes directly connected with the administration of this Act and they shall not disclose information from these reports and records except as specifically authorized by this Act:

(a) Child protective workers;

(b) Health care professionals;

(c) Staff of designated expertise centers and expert consultants;

(d) A guardian ad litem appointed by the court to represent the interests of the disabled child;

(e) Law enforcement officers;

(f) A court, upon its finding that access to such information may be necessary for the determination of an issue before such court; and

(g) A grand jury, upon its determination that access to such records is necessary in the conduct of its official business.

(2) A petitioner in an action under this Act or an applicant for status as a guardian ad litem may offer testimony or sworn statements in connection with the action.

SECTION 11. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) Any person alleging on information or belief that there is a possibility that Section 7 of this Act is being violated shall have standing to institute an action for an injunction or temporary restraining order, with or without notice, prohibiting the withholding of such sustenance or treatment; and, if he prevails, he shall recover actual reasonable attorney's fees and court costs from the persons and health care facility responsible for failure to provide the required nutritional sustenance or treatment.

(2) Any person who in good faith institutes or cooperates in such an action shall have immunity from any liability, civil or criminal, which might otherwise attach to making the allegations made in the action or to obtaining and revealing the information which is the basis for the allegations. For the purpose of any proceedings, civil or criminal, the good faith of any such persons shall be rebuttably presumed, and if such persons prevail in any proceedings brought against them based upon a claim of their lack of good faith, they shall recover actual reasonable attorney's fees from those who brought the proceedings.

SECTION 12. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) A petitioner under this Act shall file a petition in a court with jurisdiction over the child, a parent or guardian of the child or the health care facility, which contains the following information:

(a) The petitioner has information or belief that there is a possibility that Section 7 of this Act is being violated and the details of his information or reason for his belief;

(b) The person or health care facility which shall be deemed the primary respondent;

(c) The child from whom nutritional sustenance or treatment is possibly being withheld; or, if the petitioner cannot identify the child, reasonably specific information which would enable the primary respondent to determine which child is the subject of the petition;

(d) The child's parent or guardian, if the petitioner is aware of their identity, who shall thereafter be deemed the secondary respondent; and

(e) A prayer for the appointment of the petitioner or some other person as guardian ad litem for the child or a class of similarly situated children.

(2) Upon the filing of the petition, an employe of the court in which it is filed shall immediately notify the specified primary respondent of the contents of the petition by telephone or in person, and shall require the primary respondent to provide immediately the names of the child and his parent or guardian, if unknown to the petitioner. The petition shall also be served upon the respondent as provided in the rules of civil procedure.

(3) The court shall assure that the secondary respondents and the child (unless the circumstances are such that there could be no dispute that the child could not understand the communication) are promptly informed of the filing of the petition and its contents and of their right to have legal counsel, regardless of ability to pay.

(4) The court shall immediately seal the file to all, except the named litigants, counsel and those persons the guardian ad litem (once appointed) requests have access. The court may release the file if names or other identifying information about the child, his parent or guardian is deleted.

(5) Intervention shall be granted to any person or organization that can demonstrate it provides services to or advocates for the disabled or that it has a direct liberty or property interest in the outcome of the suit.

SECTION 13. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) Unless the court determines that there is collusion between the applicant for status as a guardian ad litem and the primary or secondary respondents, the court shall grant the petition for appointment as guardian ad litem. The court may revoke such an appointment after notice and hearing, upon its own motion or upon the motion of an intervenor, for collusion or lack of prosecution.

(2) The guardian ad litem shall have power to subpoena and inspect all reports, medical records and other information about the child and to designate health care professionals to conduct a medical examination of the child.

(3) If the secondary respondents request the appointment of counsel, the court shall appoint counsel for them.

(4) Unless the circumstances are such that there could be no dispute that the child could not understand the communication, the court shall ask the child whether he wishes to assert that he is mature and capable of making an informed decision to refuse or grant consent to the provision of nutritional sustenance, or treatment. If the child wishes to make that assertion, the court shall appoint counsel as special representative of the child for the limited purpose of making that assertion.

SECTION 14. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) No guardian ad litem or person receiving information upon the request of the guardian ad litem shall divulge the identify of or identifying information about the child, his parent or guardian, the contents of the court file, reports, medical records and other information about the child, except that:

(a) Such knowledge may be disclosed to other persons whose assistance is reasonably required to investigate the situation, assess the medical condition and needs of the child and prepare for and conduct proceedings before the court; provided that the guardian ad litem or his attorney shall notify or cause to be notified each such person of the duty of nondisclosure and that within a reasonable time thereafter, shall file with the court a written notice containing the name and address of each person to whom disclosure was made and briefly describe the basis for the conclusion that the disclosure was necessary;

(b) Such knowledge may be disclosed pursuant to court order for the purpose of a criminal investigation or proceeding;

(c) Once a motion for temporary restraining order, preliminary injunction or permanent injunction has been filed, information concerning the medical condition of the child and the allegation of failure to provide sustenance or treatment, may be disclosed so long as the identity or identifying information about the child, his parent or guardian is not disclosed.

(2) The requirement for confidentially shall not apply to a criminal court if the court determines disclosure is necessary to effectuate the rights of a party to a proceeding.

SECTION 15. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) At the filing of a petition under this Act, the applicant for appointment as a guardian ad litem or, at any time thereafter, the guardian ad litem, may file a motion for a temporary restraining order, preliminary injunction or permanent injunction asking that the court prohibit the withholding of nutritional sustenance or treatment.

(2) Copies of the motion shall be served on the primary and secondary respondents and on the child (unless the circumstances are such that there could be no dispute that the child could not understand the communication) and they shall be given notice that a hearing is to be held on the motion, together with the time, location and date of the hearing.

(3) If a court determines a medical emergency exists, it may grant a motion for a temporary restraining order ex parte, but in such a case it shall set a time for a full hearing at which primary and secondary respondents, any special representative and counsel are given an opportunity to be present as soon as practically possible.

(4) A hearing on any motion by a guardian ad litem for injunctive relief shall be held promptly. At any such hearing, except an ex parte hearing, all parties including the guardian ad litem, the special representative, the primary and secondary respondents and any intervenor shall be given the opportunity to present evidence and cross-examine witnesses and present legal argument. A record shall be made of the hearing.

SECTION 16. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) The court shall conduct all proceedings expeditiously, having regard to the degree of urgency of the circumstances.

(2) If the court determines based on clear and convincing evidence, that any child born with or who subsequently develops a disability is not being provided nutritional sustenance necessary to sustain life or treatment that is provided to other similarly situated children, with or without disabilities, that is necessary to correct or ameliorate a life-threatening condition or to avoid further increase in disability, it shall order that

the sustenance or treatment not be withheld.

(3) The court shall order sustenance or treatment not be withheld, notwithstanding any secondary respondent's refusal to consent or any opinion of the respondent or the court that the quality of the child's life would be deficient should the child live.

(4) In addition to any temporary restraining order or a preliminary or permanent injunction prohibiting the withholding of nutritional sustenance or treatment the court may,in its discretion, issue an order authorizing the guardian ad litem for a period of specified and limited duration, to select the health care professionals who shall attend the child, and to consent on behalf of the child to the provision of nutritional sustenance and treatment and to transfer the child to other health care facilities. Upon notice and hearing, such an order may be extended for additional periods of specified and limited duration.

SECTION 17. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) As soon as practically possible after the court rules in an action under this Act, it shall make public an opinion that summarizes the basic evidence presented concerning the medical condition of the child and the allegations of failure to provide nutritional sustenance and treatment and that contains findings of fact and conclusions of law, but does not disclose the identity, or identifying information about the child, his parent or guardian.

(2) As soon as practically possible after a transcript of the proceedings is prepared, the court shall examine the transcript in camera and delete from a copy of it all information that discloses the identity or that would reasonably lead to the disclosure of the identity of the child or of a parent or guardian of the child. The court shall then direct that the expurgated copy be deposited in the files of the clerk of the court open for public inspection. However, parties to the proceeding and their counsel shall have access to the unexpurgated transcript.

SECTION 18. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

The cabinet shall have authority to promulgate regulations necessary to implement and enforce this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

(1) Any health care facility which fails to institute the system required by Section 7 of this Act or which violates regulations under this Act shall be fined not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) for each such violation.

(2) Any person who willfully violates this Act or regulations issued under it by failure to make a report as required in Section 6 commits a Class B misdemeanor.

(3) Any person who willfully, recklessly or negligently violates the nondisclosure provisions of this Act commits a Class A misdemeanor.

SECTION 20. A NEW SECTION OF KRS CHAPTER 202C IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Disabled Children's Right To Treatment Act."

The Committee Amendment No. 1 to **HB 426** is as follows:

Amend printed copy of **HB 426** on page 4, line 16, by deleting "*One (1) member*" and substituting in lieu thereof "*Three (3) members*"

And on lines 17 through 20, by deleting them in their entirety.

And on line 21, by deleting "*(i)*" and substituting in lieu thereof "*(g)*"

And on line 23, by deleting "*j*" and substituting in lieu thereof "*(h)*"

And on line 25, by deleting "*(k)*" and substituting in lieu thereof "*(i)*"

And on page 5, line 2, by deleting "*(1)*" abd substituting in lieu thereof "*(j)*"

The Committee Amendment No. 2 to **HB 426** is as follows:

Amend printed copy of **HB 426** on page 14, line 13, after the first word "a" by inserting the word "*circuit*".

The Committee Amendment No. 3 to **HB 426** is as follows:

Amend printed copy of **HB 426** on page 10, line 9, by adding the following: "*This subsection shall not apply to a parent or guardian who, legitimately practicing his religious beliefs, fails to provide medical treatment to a child solely because of his religious beliefs. This exception shall not, however, preclude a court from ordering medical treatment for a child whose life is endangered.*"

The Committee on Transportation reported **HB 170, HB 281** with Committee Substitute attached thereto, **HB 461** with Committee Amendment attached thereto, and **HB 610** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 170, AN ACT relating to motorboats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, *except for the following:*

(a) Boats or vessels propelled totally by a direct current battery powered motor, excluding those with generator systems; and

(b) Boats propelled by human power employing the use of hand or foot operation;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Cabinet" means the natural resources and environmental protection cabinet;

(8) "Department" means the department for natural resources;

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means circuit court clerk;

(11) "Division of water patrol" means the water enforcement section, department for natural resources;

(12) "Division of driver licensing" means the licensing division, *justice* [~~bureau of vehicle regulation, transportation~~] cabinet.

HB 281, AN ACT relating to motor vehicle certificates of title.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.010 is amended to read as follows:

(1) An automated motor vehicle and trailer registration and titling system shall be developed and implemented as expeditiously as practicable in all counties of the Commonwealth. The automated motor vehicle and trailer registration system shall be designed to enable Kentucky's county clerks to produce motor vehicle and trailer certificates of registration *and title* in their offices[~~, and certificates of title in Frankfort,~~] by automated means utilizing telecommunication terminals and associated devices supplied by the Commonwealth, to inhibit registration and transfer of stolen motor vehicles or trailers, to improve the capability of detecting and recovering such vehicles, to ensure development of a common vehicle information data base to improve efficiency in auditing motor vehicle usage tax, license fee collections, and in collecting personal property tax to provide information to the traffic record system, and to provide improved security interest protection to potential creditors throughout Kentucky while simultaneously reducing the number of forms that must be processed and stored each year in Kentucky.

(2) The transportation cabinet is hereby directed to, as expeditiously as practicable, develop an automated motor vehicle and trailer registration and titling system, having, as a minimum, the capabilities or functions described in this chapter, and to acquire and assure the installation of such equipment or services as are necessary to enable the system as described in this chapter to be operated in all counties of the

Commonwealth.

(3) All departments of state government affected by the system are hereby directed to cooperate with the transportation cabinet for purposes of assuring orderly implementation of this chapter.

Section 2. KRS 186A.060 is amended to read as follows:

The department of vehicle regulation is directed to develop, in cooperation with county clerks, auto dealers, and the departments of revenue and insurance and the department of state police, a combined vehicle transaction record form to permit, to the extent feasible, the recording of all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The form shall be utilized by all applicable parties in connection with the registration, or titling of a vehicle in this state. The form shall have at least the following characteristics:

(1) An appropriate heading or title.

(2) A statement that the information required by the first or original of the form must be legibly printed in dark blue or black, permanent photoreproducing ink or indelible pencil, or typed in black, except as to signatures, which shall be originally signed in dark blue or black photoreproducing ink.

(3) A statement, prominently printed in boldface type, that any person who knowingly enters, or attests to the entry of, false or erroneous information upon the form shall be subject to the penalties of forgery in the second degree.

(4) A seller or transferor section containing space for the seller or transferor's full legal name, mailing address and telephone number, including telephone area code, and if the seller or transferor is a motor vehicle dealer licensed in this state, a space for recording the dealer license number.

(5) An owner or buyer section, containing space for the owner or buyer's full legal name, mailing address, social security account number, or, if the owner is other than a person, its state or federal employer identification number, telephone number including telephone area code, and owner's birth month.

(6) A vehicle description section with space for the vehicle identification number, and if the vehicle is a motorcycle, a motor number; the make; model name; model number; year model; number of cylinders; style of body; and spaces for designating two (2) colors, single or upper, and lower; and, if the vehicle is a truck, its gross weight.

(7) A section with spaces for recording prior registration and title information to include the previous owner's name, the state in which a vehicle was last registered or titled, and the title number, registration number, and year.

(8) An odometer disclosure section containing all information elements required by applicable federal law, except that, the language of the section shall incorporate by reference the transferor's address, the vehicle description, date of the statement and the transferee's name, address and acknowledgment, which shall appear on the same form, although not necessarily within the same section. Such section shall be imprinted with the warning that knowingly giving false or erroneous information is subject to the penalty of forgery in the second degree.

(9) A transferor's lien declaration section, containing the necessary means to obtain the following information: I ----- warrant that the vehicle described above is not subject to an unterminated lien in the name of a prior owner.

(10) A tax computation section for both new and used cars, consistent with requirements of the department of revenue.

(11) A section for the seller or transferor's certificate of truth and accuracy of the information. The section shall be printed in boldface type and shall read: I ----- (typed or printed name) hereby certify under penalty of forgery in the second degree and applicable federal and state law and regulations that the foregoing information upon this form is true and correct to the best of my knowledge and belief. ----- (signature).

(12) This language shall be followed by the words and spaces required for a notarial certificate.

(13) An owner or transferee's lien declaration section, containing the necessary means to obtain the following information: I, -----, (owner, transferee), have not applied for a loan in connection with the vehicle described above, and do not expect to do so within thirty (30) days of submission of this application to the county clerk.

(14) A lien information section containing the necessary elements to obtain the following information:

(a) This vehicle shall be subject to lien or liens, not exceeding two (2), in the name of the applicant, owner or transferee;

(b) Spaces for recording as to a first and second lien, the lienholder's name and mailing address, including zip code; and county in which the financing statement is to be filed;

(c) A statement as to whether a loan has been or will be applied for in connection with the vehicle, and whether a financing statement is expected to be filed within thirty (30) days of submission of this application to the county clerk.

(15) A section for an owner's request for issuance of a regular or special plate.

(16) A section for an owner's request for registration of a vehicle under a special fee classification.

(17) A section for the owner's statement of application for registration or a certificate of title. The

section shall state: I ----- (typed or printed name) hereby apply for registration of the vehicle described above, for a license plate of the type indicated, or a certificate of title. If I have requested that the vehicle be registered under a special use classification provided by statute, I certify that the vehicle will be operated consistent with the registration classification I have indicated. I certify under penalty of forgery in the second degree that the information I have supplied is true and correct to the best of my knowledge and belief, followed by a space for the owner's signature. This language and space shall be followed by the words and spaces required for a notarial certificate.

(18) A section for the certified vehicle inspector's certificate of inspection of a vehicle which shall include words and spaces as indicated: I ----- (printed or typed name and title) of ----- (printed or typed county) ----- (telephone area code and telephone number), do hereby certify under penalty of forgery in the second degree that I have personally and physically inspected the vehicle described above, together with this application and its supporting documents,and the vehicle is as described hereon; the documents supporting this application are consistent with the vehicle description, including the vehicle identification numbers appearing upon this application, and that the vehicle identification number displayed upon the vehicle and supporting documents appear to be in order. The odometer reading at the time of my inspection was ----- miles/kilometers (circle one). The driver's license number of the owner is -----, state of -----. I hereby certify under penalty of forgery in the second degree that the information I have given is true and correct to the best of my knowledge and belief. ----- (signature) ----- (date).

(19) County clerk's section with words and spaces as appropriate, requiring the county clerk to:

(a) Enter the type, name of the issuer, identifying number and date of issue, of the document supporting the application, together with its document control number (as distinguished from title number) and the taxes and fees to be collected, including the number of months of registration sold, the month and year of expiration, and such decal numbers as may be required to permit audit of fee collections;

(b) Words requiring, and spaces for entry of, the name of the county in which the application was received together with the date and time of receipt, and space for the signature of the clerk or deputy, which shall be preceded by the words "I certify under penalty of forgery in the second degree that I have reviewed this application and the documents supporting it; all supporting documents indicated hereon are present and consistent in pertinent part with this application, that I received the application on the date and at the time indicated hereon, and that I collected the fees as indicated." ----- (signature of clerk or deputy clerk, date, county).

(20) A statement that "I certify under penalty of forgery in the second degree that this record was entered with due diligence into the automated system by me at or about ----- (time) ----- (date) ----- (signature) ----- (title)."

(21) [~~Spaces for stamping the date and time of receipt of the application by the department of vehicle regulation and for the signature or prescribed symbol of the receipt clerk and for endorsements by processing clerks.~~

~~(22) A space for endorsement that title issuance was recommended to the department of vehicle regulation —— (date, time) by —— (signature) which shall be preceded by the words "I certify under penalty of forgery in the second degree that due diligence has been exercised in recommending issuance of title No. —— in the name of the applicant for the vehicle described above" —— (signature, date).~~

~~(23)~~] The form may contain or require any other information deemed appropriate by the department of vehicle regulation in cooperation with the departments of revenue and insurance and the department of state police, and may be organized as efficiency dictates.

Section 3. KRS 186A.170 is amended to read as follows:

(1) The *county clerk* [~~department of vehicle regulation~~] shall[~~:~~

~~(a) Within five (5) working days~~] following receipt [~~by it~~] of an application for a certificate of title in proper form, process the application and [~~its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents,~~] issue a certificate of title in the name of the owner [~~and send it postpaid to such owner~~].

[~~(b) The department of vehicle regulation shall provide by regulation, a procedure for direct delivery, as distinguished from delivery by mail, of a certificate of title to an owner or owner's agent, and may establish a fee deemed reasonable by it for such service.~~]

(2) Upon receiving *the supporting documents* [~~an application packet~~] from a county clerk, the application receipt clerk of the department of vehicle regulation shall:

(a) Cause the date and time of receipt to be stamped on both the department's copy and the acknowledgment copy of the application transmittal record and accompanying documents;

(b) Cause at least duplicate sets of microfilm images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys;

(c) Compare the application transmittal record with the documents accompanying it, and, if all applications shown upon the record are accompanying the record, endorse the department's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgment copy to the clerk who issued it.

(3) In the event there is a discrepancy between the application transmittal record and the application attached to it, the department of vehicle regulation shall note the discrepancy upon the department's copy and the acknowledgment copy, and shall promptly contact the issuing clerk and resolve the discrepancy. After resolving the discrepancy, the department shall note the nature of the disposition of the discrepancy and endorse the respective copies and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk.

(4) After executing the acknowledgment of receipt of *the supporting documents* [~~applications~~], the department of vehicle regulation *may* [~~shall~~] carry out *any or all of* the following *actions* [~~action~~] with respect to each application:

(a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The department of vehicle regulation shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;

(b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;

(c) Assure that the vehicle identification number of the subject vehicle is apparently legitimate;

(d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the national crime information center (NCIC) computerized listings of vehicles reported stolen, unless NCIC is not operational and the department has official notification that it is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it;

(e) Compare the computer produced certificate of title for consistency with the owner's application and supporting documents.

(5) When *an appropriate review of supporting documents* [~~the title application~~] has been completed, and the application examiner at each significant stage has indicated, by placing his unique symbol upon the application in the space provided thereon, that an application has passed the required examinations, the application shall be examined by a title examination certifier.

(6) The title application certifier shall ensure that *the supporting documents have* [~~each application has~~] received the *appropriate* [~~required~~] examinations as indicated by the presence of *the* [~~each required~~] examiner's symbol. Upon satisfying himself that an application has passed the required examinations, the title examination certifier shall place his unique symbol together with the date upon the application.

(7) The department of vehicle regulation shall *notify the department of state police* [~~withhold issuance of a title, until its questions are resolved to its satisfaction,~~] when it finds material discrepancies or has information giving probable cause to believe:

(a) That an applicant is not the lawful owner of a vehicle for which he seeks a title;

(b) His application is not in order;

(c) The documentation supporting an application is insufficient or fraudulent;

(d) The vehicle has an illegitimate vehicle identification number;

(e) The vehicle is stolen; or

(f) That the computer produced certificate of title is not consistent with the owner's application.

(8) When the department of vehicle regulation finds that a certificate of title should be issued for a vehicle, the endorsement of the commissioner of the department of vehicle regulation shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the department of vehicle regulation has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. -------------- (signature), commissioner, department of vehicle regulation, Kentucky transportation cabinet.

Section 4. KRS 186A.175 is amended to read as follows:

(1) Each certificate of title issued by the *county clerk* [~~department of vehicle regulation~~] shall contain:

(a) The date of its issue;

(b) The name, social security account number or federal employer identification number and current mailing address of the owner, to include zip code;

(c) The names and addresses of any lienholders, not exceeding two (2);

(d) The title number;

(e) A description of the vehicle including the following data: year, make, model name, model number, vehicle identification number, type of body, number of cylinders, color or colors not exceeding one upper and one lower color, and if the vehicle is a truck, its gross weight;

(f) If last titled in another state, the name of the state and the title number;

(g) Forms for assignment and warranty of title by the owner, and for assignments and warranty of title by dealers;

(h) Any other information the department requires;

(2) A certificate of title issued by the *county clerk* [~~department~~] is prima facie evidence of the facts appearing on it.

Section 5. KRS 186A.055, System to withhold title until vehicle identification number compared, is repealed.

The Committee Substitute to **HB 281** is as follows:

HB 281, AN ACT relating to motor vehicle certificates of title.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the cabinet, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within *fifteen (15)* [~~ten (10)~~] days. The [~~bill of sale or~~] assigned title must be in the motor vehicle during this *fifteen (15)* [~~ten-~~]day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for *title* [~~registration~~] shall be accompanied by:

(a) A [~~bill of sale and a~~] manufacturer's certificate of origin if the application is for the *title* [~~registration~~] of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(2) (a) After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before the date on which his certificate of registration expires. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(b) After that, the owner of any motor vehicle registered under KRS 186.050(2) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050(3) through (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department. *If the motor vehicle is a truck designed for the transportation of property, the application forms shall contain space for the declared gross weight in pounds. The declared gross weight shall be the weight of the vehicle and the heaviest load that the vehicle will be used to carry at any time on the highways.*

(4) The application and documents presented therewith, including the sheriff's certificate of inspection, shall be affixed to the transportation cabinet copy of the certificate of title or registration and sent to the transportation cabinet by the clerk.

Section 2. KRS 186.040 is amended to read as follows:

(1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration [~~and ownership~~] containing the information required by subsection (2) *of this section* and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the governor that previously issued plates continue to be used for a designated period. For services performed the owner shall pay the county clerk the sum of two dollars ($2.00) for each registration.

(2) The certificate of registration [~~and ownership~~] shall contain the registration number, the names and post office addresses of the owner [~~and the secured party as shown by the financing statement on file in the office of the county clerk~~] and such other information as the cabinet may require. [~~The owner's copy of such certificate shall bear the seal of the county clerk who issued same. No fee shall be charged for placing such seal on the owner's copy of the certificate.~~

~~(3) If a motor vehicle, other than a new motor vehicle, is registered in this state under the authority of a bill of sale, registration receipt or title, the certificate of registration and ownership shall show the title or the registration number and the name of the state issuing same under which the motor vehicle was last registered in addition to the other required information.~~]

Section 3. KRS 186.045 is amended to read as follows:

(1) Financing statements relating to vehicles required to be registered in Kentucky by the county clerk shall be filed in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the vehicle is principally operated.

(2) [~~(a)~~] Whenever a financing statement required by KRS Chapter 355 relating to any vehicle *titled* [~~registered~~] or required to be *titled* [~~registered~~] in Kentucky [~~for use on the highway~~] is presented to a county clerk for filing, such clerk shall also immediately note information required by the cabinet relative *to KRS 186A.190* [~~thereto on the owner's copy of the certificate of registration and ownership or transfer receipt issued for the current registration period as noted in subsection (2) of KRS 186.170, which the secured party must obtain and present to the county clerk,~~] along with the financing statement, within fifteen (15) days, exclusive of Sundays and holidays, after execution of the security agreement. [~~The clerk shall also note such information on the clerk's copy of the certificate of registration and ownership or transfer receipt maintained in his office in numerical order.~~] The clerk noting the information on the owner's *title* [~~copy of the certificate of registration and ownership or transfer receipt~~] shall return such *title* [~~receipt~~] to the owner within five (5) days after making such notation. For filing the financing statement, the clerk shall collect a fee pursuant to KRS 64.012 from the secured party and, in addition, for noting the security interest on the required *title* [~~receipts~~], the clerk shall collect from the secured party a fee pursuant to KRS 64.012 for each additional motor vehicle included on the financing statement.

[~~(b) Whenever a financing statement affecting a vehicle is presented to a county clerk for filing in any county other than the one in which the current receipt was issued, the county clerk shall, in addition to the other requirements of this section, mail a notice of the security interest on a form furnished by the cabinet to the clerk of the county in which the current receipt was issued. Upon receipt of said notice, the county clerk shall attach it to the copy of the current receipt on file, maintained in numerical order, in the county clerk's office and note the security interest on the clerk's copy of the receipt.~~]

(3) For failure to present [~~both~~] the [~~current receipt and~~] financing statement within the time prescribed by subsection (2)[~~(a)~~], the secured party shall pay a penalty of two dollars ($2.00) to the county clerk as a prerequisite for noting the security interest on the *title* [~~current receipt~~].

(4) Whenever a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of such statement to the debtor. The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment to the county clerk in whose office the financing statement is on file. Upon receipt of the assignment, the county clerk shall mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the original financing statement. For this service the county clerk shall collect a fee pursuant to KRS 64.012.

(5) Whenever a security interest has been discharged, other than by proceedings under KRS 355.9-501 through 355.9-507 or similar proceedings, the secured party shall, within fifteen (15) days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the county clerk of the county in which the financing statement is filed. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index and[~~, in addition, note on the clerk's copy of the current receipt maintained in his office in numerical order,~~] in language prescribed by the cabinet that the termination statement has been filed. Upon presentation of the owner's *title* [~~copy of the receipt~~] showing such security interest, the clerk shall also note on such *title* [~~receipt~~] that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's *title* [~~receipt~~] to the owner. The county clerk shall remove the financing statement from his files, mark "terminated" thereon and send or deliver it to the secured party along with any continuation statement, statement of assignment or statement of release pertaining thereto. The county clerk shall then file the termination statement in the place from which the financing statement was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing such statement, at which time they may be destroyed. No fee shall be collected for these services by the clerk. Once a security interest has been noted on the owner's *title,* [~~copy of a certificate of registration and ownership or transfer receipt,~~] no subsequent *title* [~~certificate of registration and ownership or transfer receipt~~] may be issued by any county clerk free of such notation unless the owner's *title* [~~copy of the current receipt~~] is presented to the clerk and it has *been* noted thereon by the proper county clerk that the termination statement therefor has been

filed. If this requirement is met, information relating to any security interest shown on the *title* [~~receipt~~] as having been terminated may be omitted from the *title* [~~receipt~~] to be issued by the clerk.

(6) Whenever any secured party repossesses a vehicle *titled in this state,* [~~registered with a county clerk,~~] for which a financing statement has been filed, and disposes of such vehicle pursuant to the provisions of KRS Chapter 355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the cabinet and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for *titling* [~~registering~~] and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the *lien* [~~current receipt~~] shall then omit from the *title* [~~certificate of registration and ownership or transfer receipt~~] he *makes application for* [~~issues~~] any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such *title,* [~~clerk's copy of the current receipt,~~] which is superior to the one under which the vehicle was repossessed, must be shown on the *title application* [~~receipt issued by the clerk~~] unless the prior secured party has terminated such security interest in such clerk's office or proof of termination is submitted in case such prior security interest was discharged in another clerk's office.

(7) Whenever any vehicle brought into this state is required to be *titled in this state* [~~registered with a county clerk~~] and such vehicle is then subject to a security interest in another state as shown by the out of state documents presented to the clerk, the county clerk is prohibited from *processing the application for title on* [~~registering~~] the vehicle unless the owner obtains from the secured party a financing statement and presents same to the clerk along with all fees due. Such a financing statement must conform to the requirements of subsection (3) of KRS 355.9-402. The clerk shall note the out of state security interest on the *application for title* [~~new registration receipt and on the clerk's copy thereof~~]. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145. The penalty provided in subsection (3) of this section shall not apply to this subsection.

(8) The fees provided for in this section are in addition to any state fee provided for by law.

(9) Any person violating any provision of this section or any person refusing to surrender a *title* [~~certificate of registration and ownership or transfer certificate~~] upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(10) The county clerk is prohibited from filing any financing statement on any vehicle subject to the provisions of this section if a *title* [~~certificate of registration and ownership or transfer receipt~~] therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a termination statement is filed for each discharged security interest and then a duplicate *title* [~~receipt~~] as provided for in KRS *186A.180* [~~186.180~~] must be obtained from the clerk by the owner of the vehicle.

(11) Security interests in vehicles sold to or owned by residents of other states must be perfected in the state of such nonresident and repossession of the vehicle must be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly *titled* [~~registered~~] herein under KRS *186A.065* [~~186.020~~] and the security interest is authorized to be filed with the county clerk under KRS 355.9-401. [~~However, a security interest on any vehicle which is not used on the public highways and for that reason is not required to be registered for highway use may be filed with the county clerk as otherwise permitted under KRS Chapter 355.~~]

Section 4. KRS 186.047 is amended to read as follows:

Whenever any financing statement lapses under the provisions of KRS 355.9-403, the county clerk of the county in whose office the financing statement is filed shall, *upon presentation of the owner's certificate of title,* note on the *certificate of title* [~~clerk's copy of current registration or transfer receipt~~] that such financing statement has lapsed. [~~Upon presentation of the owner's copy of the current registration or transfer receipt, the aforementioned clerk shall make the same notation thereupon and~~ Thereafter any clerk may omit information regarding the lapsed financing statement from any new *certificate of title* [~~registration or transfer receipt~~] issued for the motor vehicle.

Section 5. KRS 186.076 is amended to read as follows:

The transportation cabinet may revoke the license of any motor vehicle dealer who acquires a used motor vehicle for cash, trade-in, or in any other manner, and fails to *comply with the requirements of KRS 186A.220* [~~have the registration transferred to him prior to the time the vehicle is sold or otherwise transferred to another person, or within ten (10) days after acquired, whichever may be sooner~~]. Such person shall be afforded a full opportunity to defend himself against any such charge under rules and regulations adopted by the transportation cabinet governing the procedure for such revocation action. Provided, however, That such dealer shall have the right to appeal any order of revocation entered by the transportation cabinet to the Kentucky board of tax appeals as provided by law.

Section 6. KRS 186.145 is amended to read as follows:

Any motor vehicle properly registered and titled in another state belonging to a nonresident, which vehicle is required to be registered in this state by reason of lack of reciprocal agreement with the state in which it is registered, or by reason of not qualifying for reciprocity under an existing reciprocal agreement with the state in which it is registered, may be registered with the county clerk by presenting a photostat or certified copy of the registration receipt or certificate of title issued to the nonresident in his home state. [~~The registration receipt issued by the county clerk shall be stamped across its face with a notation prescribed by the cabinet that will indicate the registration receipt so issued cannot be used in transferring legal title to the motor vehicle. However, under regulations prescribed by the cabinet, a registration receipt so issued may be transferred to a new owner if the foreign legal title and registration is transferred in that state to the new owner.~~] Nothing contained in this section shall release the owner of the vehicle from any tax fees or other requirements imposed by law.

Section 7. KRS 186.160 is amended to read as follows:

No clerk shall receive an application for registration nor register a motor vehicle, unless the motor vehicle bears a motor number or a vehicle identification number. If there is no motor number or vehicle identification number, or if the number is not plainly legible, the owner shall apply through the clerk to the transportation cabinet for a motor number or vehicle identification number, and when that number is assigned to the owner's motor vehicle the owner shall cause the number to be stamped on the motor with a steel die or in the space provided by manufacturer for vehicle identification number. That number shall thereafter be used by the owner in making registration or *an application for title* [~~executing a bill of sale~~].

Section 8. KRS 186.190 is amended to read as follows:

(1) Whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon such motor vehicle as a part of it until the expiration of the registration year.

(2) [~~No person shall purchase, sell or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the current registration receipt issued on the motor vehicle and the bill of sale.~~

~~(3)~~] Upon delivery of the *certificate of title* [~~registration receipt and the bill of sale~~] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the transportation cabinet. The county clerk shall thereupon issue to the purchaser a [~~transfer of~~] registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

[~~(4) Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.~~]

(3)[~~(5)~~] If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate, *title* and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall immediately return the plate, *title* and *registration* receipt to the transportation cabinet. The owner shall pay to the county clerk fifty cents (50) for his services.

(4)[~~(6)~~] A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(5)[~~(7)~~] The registration receipt issued by the clerk under this section shall contain information as required by the department of vehicle regulation.

Section 9. KRS 186.655 is amended to read as follows:

(1) Before any owner or operator of a trailer, semitrailer, mobile home or recreational vehicle may operate or permit the operation of such vehicles upon the highways, the owner shall apply for registration to the county clerk of the county in which he resides or in which such vehicles are principally operated. The application shall be retained by the clerk and shall be accompanied by:

(a) A manufacturer's certificate of origin, if the application is for the registration of a new trailer, semitrailer, mobile home or recreational vehicle; or

(b) The owner's *certificate of title* [~~registration receipt~~], if the trailer, semitrailer, mobile home or recreational vehicle was last *titled* [~~registered~~] in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a trailer, semitrailer, mobile home or recreational vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a trailer, semitrailer, mobile home or recreational vehicle to obtain a certificate of title or ownership; or

(e) Affidavit from the owner of a trailer, semitrailer, mobile home or recreational vehicle assembled or constructed for his personal use on the highways; or

(f) Affidavit from the owner of a trailer, semitrailer, mobile home or recreational vehicle where the bill of sale for such vehicle has been lost, destroyed or stolen.

(2) The affidavit required in paragraph (e) *of subsection (1) of this section* shall contain the owner's name, address, date, brief description and a statement that the trailer was constructed by the owner for use on the highways and any additional information that the cabinet may from time to time prescribe by regulation.

(3) The affidavit required in paragraph (f) *of subsection (1) of this section* shall contain the owner's

name, address, date, make, year made, serial or identification number, from whom purchased, date of purchase, that the person making the affidavit is the sole owner, the circumstances under which the bill of sale was lost, destroyed or stolen, and any additional information that the cabinet may from time to time prescribe by regulation.

(4) After that, he shall register his trailer, semitrailer, mobile home or recreational vehicle on or before April 1 of each year. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the cabinet.

(5) No county clerk or other officer shall issue any license tags to the owner of any mobile home or recreational vehicle when it is offered for registration in this state, unless the owner presents a tax receipt from the seller verifying that the Kentucky sales tax has been paid. If the owner is unable to present such evidence of payment of tax, he shall furnish to the clerk a bill of sale indicating the purchase price of the mobile home or recreational vehicle on which price the sales tax shall be assessed. If he cannot furnish a bill of sale indicating the purchase price, the clerk shall assess the value in accordance with information prescribed by the department of revenue. The clerk shall collect the tax, deduct a fee of five percent (5%) of the amount collected and remit the balance to the department of revenue.

Section 10. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, [~~186.030,~~] 186.040, 186.045(5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465 *or* [~~,~~] 186.190[~~, or 186.200~~] shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than twelve dollars ($12.00) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) [~~Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.~~

~~(8)~~] Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

Section 11. KRS 186A.010 is amended to read as follows:

(1) An automated motor vehicle and trailer registration and titling system shall be developed and implemented as expeditiously as practicable in all counties of the Commonwealth. The automated motor vehicle and trailer registration system shall be designed to enable Kentucky's county clerks to produce motor vehicle and trailer certificates of registration in their offices, and certificates of title in Frankfort, *or other locations designated by the commissioner of vehicle regulation, which have the proper facilities to protect the integrity of the system* by automated means utilizing telecommunication terminals and associated devices supplied by the Commonwealth, to inhibit registration and transfer of stolen motor vehicles or trailers, to improve the capability of detecting and recovering such vehicles, to ensure development of a common vehicle information data base to improve efficiency in auditing motor vehicle usage tax, license fee collections, and in collecting personal property tax to provide information to the traffic record system, and to provide improved security interest protection to potential creditors throughout Kentucky while simultaneously reducing the number of forms that must be processed and stored each year in Kentucky.

(2) The transportation cabinet is hereby directed to, as expeditiously as practicable, develop an automated motor vehicle and trailer registration and titling system, having, as a minimum, the capabilities or functions described in this chapter, and to acquire and assure the installation of such equipment or services as are necessary to enable the system as described in this chapter to be operated in all counties of the Commonwealth.

(3) All departments of state government affected by the system are hereby directed to cooperate with the transportation cabinet for purposes of assuring orderly implementation of this chapter.

Section 12. KRS 186A.025 is amended to read as follows:

(1) (a) The *department of vehicle regulation* [~~finance and administration cabinet~~] shall have full

responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.

(2) The department of information systems shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the department of state police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

(3) All expenses and costs related to the AVIS system shall be paid out of general fund dollars generated from ad valorem tax revenues. All unexpended appropriations for AVIS shall not lapse at the end of each fiscal year.

Section 13. KRS 186A.045 is amended to read as follows:

The department of transportation shall ensure that each county in the Commonwealth is equipped with at least one (1), or more than one (1), as workload dictates, video telecommunications terminal and associated devices, linked to a computer in Frankfort maintained by the Commonwealth, and capable of enabling the county clerks to produce certificates of registration in their offices, and certificates of title in Frankfort, *or other locations designated by the commissioner of vehicle regulation which have the proper facilities to protect the integrity of the system* in a manner consistent with this chapter.

Section 14. KRS 186A.060 is amended to read as follows:

The department of vehicle regulation is directed to develop, in cooperation with county clerks, auto dealers, and the departments of revenue and insurance and the department of state police, a [~~combined~~] vehicle *title application* [~~transaction record~~] form to permit, to the extent feasible, the recording of all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The form shall be utilized by all applicable parties in connection with the registration, or titling of a vehicle in this state. The form shall have at least the following characteristics:

(1) An appropriate heading or title.

(2) A statement that the information required by the first or original of the form must be legibly printed in dark blue or black, permanent photoreproducing ink or indelible pencil, or typed in black, except as to signatures, which shall be originally signed in dark blue or black photoreproducing ink.

(3) A statement, prominently printed in boldface type, that any person who knowingly enters, or attests to the entry of, false or erroneous information upon the form shall be subject to the penalties of forgery in the second degree.

(4) [~~A seller or transferor section containing space for the seller or transferor's full legal name, mailing address and telephone number, including telephone area code, and if the seller or transferor is a motor vehicle dealer licensed in this state, a space for recording the dealer license number.~~

~~(5)~~] An owner or buyer section, containing space for the owner or buyer's full legal name, mailing address, social security account number, or, if the owner is other than a person, its state or federal employer identification number, telephone number including telephone area code, and owner's birth month.

(5)[~~(6)~~] A vehicle description section with space for the vehicle identification number, and if the vehicle is a motorcycle, a motor number; the make; model name; model number; year model; number of cylinders; style of body; and spaces for designating two (2) colors, single or upper, and lower; and, if the vehicle is a truck, its gross weight.

[~~(7) A section with spaces for recording prior registration and title information to include the previous owner's name, the state in which a vehicle was last registered or titled, and the title number, registration number, and year.~~

~~(8) An odometer disclosure section containing all information elements required by applicable federal law, except that, the language of the section shall incorporate by reference the transferor's address, the vehicle description, date of the statement and the transferee's name, address and acknowledgment, which shall appear on the same form, although not necessarily within the same section. Such section shall be imprinted with the warning that knowingly giving false or erroneous information is subject to the penalty of forgery in the second degree.~~

~~(9) A transferor's lien declaration section, containing the necessary means to obtain the following information: I —— warrant that the vehicle described above is not subject to an unterminated lien in the name of a prior owner.~~]

(6)[~~(10)~~] A tax computation section for both new and used cars, consistent with requirements of the department of revenue.

[~~(11) A section for the seller or transferor's certificate of truth and accuracy of the information. The section shall be printed in boldface type and shall read: I —— (typed or printed name) hereby certify under penalty of forgery in the second degree and applicable federal and state law and regulations that the foregoing information upon this form is true and correct to the best of my knowledge and belief. —— (signature).~~

~~(12) This language shall be followed by the words and spaces required for a notarial certificate.~~]

(7)[~~(13)~~] An owner or transferee's lien declaration section, containing the necessary means to obtain the following information: I, -----, (owner, transferee), have not applied for a loan in connection with the

vehicle described above, and do not expect to do so within thirty (30) days of submission of this application to the county clerk.

(8)[~~(14)~~] A lien information section containing the necessary elements to obtain the following information:

(a) This vehicle shall be subject to lien or liens, not exceeding two (2), in the name of the applicant, owner or transferee;

(b) Spaces for recording as to a first and second lien, the lienholder's name and mailing address, including zip code; and county in which the financing statement is to be filed;

(c) A statement as to whether a loan has been or will be applied for in connection with the vehicle, and whether a financing statement is expected to be filed within thirty (30) days of submission of this application to the county clerk.

(9)[~~(15)~~] A section for an owner's request for issuance of a regular or special plate.

(10)[~~(16)~~] A section for an owner's request for registration of a vehicle under a special fee classification.

(11)[~~(17)~~] A section for the owner's statement of application for registration or a certificate of title. The section shall state: I ----- (typed or printed name) hereby apply for registration of the vehicle described above, for a license plate of the type indicated, or a certificate of title. If I have requested that the vehicle be registered under a special use classification provided by statute, I certify that the vehicle will be operated consistent with the registration classification I have indicated. I certify under penalty of forgery in the second degree that the information I have supplied is true and correct to the best of my knowledge and belief, followed by a space for the owner's signature. This language and space shall be followed by the words and spaces required for a notarial certificate.

[~~(18) A section for the certified vehicle inspector's certificate of inspection of a vehicle which shall include words and spaces as indicated: I —— (printed or typed name and title) of —— (printed or typed county) —— (telephone area code and telephone number), do hereby certify under penalty of forgery in the second degree that I have personally and physically inspected the vehicle described above, together with this application and its supporting documents,and the vehicle is as described hereon; the documents supporting this application are consistent with the vehicle description, including the vehicle identification numbers appearing upon this application, and that the vehicle identification number displayed upon the vehicle and supporting documents appear to be in order. The odometer reading at the time of my inspection was —— miles/kilometers (circle one). The driver's license number of the owner is ——, state of ——. I hereby certify under penalty of forgery in the second degree that the information I have given is true and correct to the best of my knowledge and belief. —— (signature) —— (date).~~]

(12)[~~(19)~~] County clerk's section with words and spaces as appropriate, requiring the county clerk to:

(a) Enter the type, name of the issuer, identifying number and date of issue, of the document supporting the application, together with its document control number (as distinguished from title number) and the taxes and fees to be collected, including the number of months of registration sold, the month and year of expiration, and such decal numbers as may be required to permit audit of fee collections;

(b) Words requiring, and spaces for entry of, the name of the county in which the application was received together with the date and time of receipt, and space for the signature of the clerk or deputy, which shall be preceded by the words "I certify under penalty of forgery in the second degree that I have reviewed this application and the documents supporting it; all supporting documents indicated hereon are present and consistent in pertinent part with this application, that I received the application on the date and at the time indicated hereon, and that I collected the fees as indicated." ----- (signature of clerk or deputy clerk, date, county).

(13)[~~(20)~~] A statement that "I certify under penalty of forgery in the second degree that this record was entered with due diligence into the automated system by me at or about ----- (time) ----- (date) ----- (signature) ----- (title)."

(14)[~~(21)~~] Spaces for stamping [~~the date and time of receipt of the application by the department of vehicle regulation and for~~] the signature or prescribed symbol of the receipt clerk and for endorsements by processing clerks.

(15)[~~(22)~~] A space for endorsement that title issuance was recommended to the department of vehicle regulation ----- (date, time) by ----- (signature) which shall be preceded by the words "I certify under penalty of forgery in the second degree that due diligence has been exercised in recommending issuance of title [~~No. ——~~] in the name of the applicant for the vehicle described above" ----- (signature, date).

(16)[~~(23)~~] The form may contain or require any other information deemed appropriate by the department of vehicle regulation in cooperation with the departments of revenue and insurance and the department of state police, and may be organized as efficiency dictates.

Section 15. KRS 186A.115 is amended to read as follows:

(1) Except as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the

vehicle together with his application for title *and/or* [~~and~~] its supporting documents inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk.

(a) The certified inspector shall be certified through the department of vehicle regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter and will be liable for any and all penalties prescribed in this chapter, and shall be available during regular office hours at any and all offices and branches that issue applications for titles.

(b) *The department of vehicle regulation shall develop a form for use when certified inspection of a motor vehicle is required. The form for the certified vehicle inspector's certificate of inspection of a vehicle shall include words and spaces as indicated: I ------ (printed or typed name and title) of ------ (printed or typed county) ------ (telephone area code and telephone number), do hereby certify under penalty of forgery in the second degree that I have personally and physically inspected the vehicle described hereon, together with its supporting documents, and the vehicle is as described; the documents supporting the vehicle are consistent with the vehicle description, including the vehicle identification numbers appearing upon this certification, and that the vehicle identification number displayed upon the vehicle and the supporting documents appear to be in order. The odometer reading at the time of my inspection was ------ (miles/kilometers). The individual or company seeking inspection is ------. I hereby certify under penalty of forgery in the second degree that the information I have given is true and correct to the best of my knowledge and belief. ------ (Signature) ------ (Date).*

(c) The form may contain or require any other information deemed appropriate by the department of vehicle regulation, and may be organized as efficiency dictates.

(d) There shall be a three dollar ($3.00) fee for this certification, payable to the sheriff's office, upon completion of certification.

(e)[~~(c)~~] There shall be an additional fee of seven dollars ($7.00) per trip when it becomes necessary for the certified inspector to travel to the site of the vehicle rather than bringing the vehicle to the sheriff's inspection area.

(2) The following vehicles are excluded from the requirement of inspection by a certified inspector prior to titling in this state:

(a) New motor vehicles sold by a dealer licensed in this state;

(b) Vehicles required to be registered in this state by reason of lack of a reciprocity agreement with another state and for which a non-negotiable registration document is to be issued; and

(c) Motor vehicles operated by a motor carrier under a non-negotiable certificate or permit issued by the department of vehicle regulation;

(d) Motor vehicles owned by servicemen or servicewomen who are residents of Kentucky stationed outside of Kentucky, may be inspected by the post provost or similar officer of the camp, post or station. The post provost or similar officer shall submit an affidavit stating the name of the owner, the identification or serial number, the make, body style, current license or title number, if any, and state in which currently registered or titled, if any, of the motor vehicle.

(3) When presented to a certified inspector for inspection or to a county clerk for processing, the owner's application for a first certificate of registration or title in his name, shall be accompanied by one of the following documents as applicable:

(a) If the vehicle is a new vehicle not previously registered in this state, the properly assigned manufacturer's statement of origin for the vehicle for which registration or title is sought;

(b) If the vehicle was last registered in this state, and is a vehicle for which a title is not required in this state, a certificate of registration, or if the vehicle is one for which a certificate of title is required in this state, *the* properly assigned certificate of title;

(c) If the vehicle was last previously titled in another state, a properly assigned certificate of title;

(d) If the application refers to a vehicle previously registered in another country, the documents of that country establishing ownership of the vehicle;

(e) If the application refers to a vehicle last previously registered in another country by a person on active duty in the armed forces of the United States, the county clerk may accept on behalf of the department of vehicle regulation evidence of ownership provided the applicant by the United States department of defense;

(f) If the application relates to a vehicle which has been specially constructed or reconstructed, that fact shall be stated in the application, and the application shall be accompanied by such documents as are specified by administrative regulations of the department of vehicle regulation.

(4) When requested to inspect a vehicle pursuant to this section, the certified inspector shall personally and physically inspect the vehicle when registration or title is sought in this state, together with the *application for title* [~~vehicle transaction record~~], *or* [~~and~~] its supporting documentation, on the following points:

(a) He shall ensure that the *application for title* [~~vehicle transaction record~~] and each of its copies are legible and properly executed to the extent required at the time of execution;

(b) He shall compare the vehicle identification number as appearing on both the vehicle identification number plate, and the federal safety standards label of the vehicle which is sought to be registered or titled, with the corresponding number inscribed on the *application for title* [~~vehicle transaction record~~], *or* [~~and~~] its supporting documentation, and ensure that the vehicle identification number appearing at each described location appears legitimate and that they are consistent with each other;

(c) He shall examine the primary odometer of the vehicle and legibly record the reading in the space provided in the inspection section of the *inspection form* [~~transaction record~~]; and

(d) After exercising due diligence in inspecting the vehicle, the *application for title* [~~vehicle transaction record~~], *or* [~~and~~] its supporting documentation, and finding that they appear to be in order, the certified inspector shall execute the preprinted certificate of inspection according to its terms by printing in the spaces provided, his first name, middle initial and last name, and his title, the name of the county in which he serves and the telephone number including the telephone area code of his agency, and sign in ink his signature in the space provided, and print the month, day and year in which his inspection was made, certifying under penalty of forgery in the second degree the character, accuracy and date of his inspection.

(5) The certified inspector shall refrain from executing the certificate of inspection if:

(a) He has not personally and physically inspected the vehicle in accordance with this section;

(b) He has reason to believe that the vehicle displays an unlawfuly altered vehicle identification number;

(c) [~~The vehicle transaction record and any of its copies are illegible or otherwise improperly executed, or contain information reasonably believed to be inaccurate or fraudulent;~~

~~(d)~~] The documentation required in support of any application is not present, or not consistent with the vehicle and the owner's application or appears fraudulent; or

(d)[~~(e)~~] He has probable cause to believe the vehicle is stolen.

Section 16. KRS 186A.140 is amended to read as follows:

(1) The department of vehicle regulation shall provide by administrative regulations, procedures for registration or titling, for a vehicle in a county not equipped with automated facilities provided for by this chapter, or whose facilities have been rendered useless for a period exceeding one (1) day by reason of calamity.

(2) Procedures developed under this section shall be consistent with concepts that liens associated with motor vehicles shall be filed with the county clerk, and that a title shall be issued [~~centrally~~] from Frankfort, *or other locations designated by the commissioner of vehicle regulation as stated in KRS 186A.045,* after careful review of an application to determine correctness and legitimacy of it.

Section 17. KRS 186A.165 is amended to read as follows:

Not later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle is received by him, the county clerk shall prepare on forms supplied by the department of vehicle regulation, an application transmittal record.

(1) The clerk shall indicate thereon in the spaces provided, the name of his county, the date or time period the transmittal relates to and, in the order they are to be attached to the transmittal record, a notation for each application attached consisting of the applicant's last name and initials or if the applicant is other than an individual, the name commonly used by the applicant and any other information required upon the form as indicated thereon.

(2) The clerk shall ensure that the original of all applications noted on the transmittal, together with the original of all required supporting documents are attached to the transmittal record in the order shown thereon, and shall thereafter sign and date the original of the transmittal record as of the date the transmittal is being forwarded to Frankfort *or to other locations designated by the commissioner of vehicle regulation as stated in KRS 186A.010 and 186A.045.*

(3) The county clerk shall place the original of each application record, with the original of each application shown thereon, and its required supporting documents, together with the acknowledgment of the transmittal record, in the envelope or other container provided by the department of vehicle regulation and forward to the division of motor vehicle licensing in Frankfort *or to other locations designated by the commissioner of vehicle regulation as stated in KRS 186A.010 and 186A.045.*

Section 18. KRS 186A.170 is amended to read as follows:

(1) The department of vehicle regulation shall:

(a) Within five (5) working days following receipt by it of an application for a certificate of title in proper form, process the application and its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents, issue a certificate of title in the name of the owner and send it postpaid to such owner.

(b) The department of vehicle regulation shall provide by regulation, a procedure for direct delivery, as distinguished from delivery by mail, of a certificate of title to an owner or owner's agent, and may establish a fee deemed reasonable by it for such service.

(c) The department may provide, by regulation, special procedures for the expedited production of titles at all designated locations as stated in KRS 186A.045 for which it shall charge an additional fee not to

exceed twelve dollars ($12) of which two dollars ($2) shall be returned to the county clerk of the county given as residence on the title document.

(2) Upon receiving an application packet from a county clerk, the application receipt clerk of the department of vehicle regulation shall:

(a) Cause the date and time of receipt to be stamped on both the department's copy and the acknowledgment copy of the application transmittal record and accompanying documents;

(b) Cause at least duplicate sets of microfilm images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys;

(c) Compare the application transmittal record with the documents accompanying it, and, if all applications shown upon the record are accompanying the record, endorse the department's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgment copy to the clerk who issued it.

(3) In the event there is a discrepancy between the application transmittal record and the application attached to it, the department of vehicle regulation shall note the discrepancy upon the department's copy and the acknowledgment copy, and shall promptly contact the issuing clerk and resolve the discrepancy. After resolving the discrepancy, the department shall note the nature of the disposition of the discrepancy and endorse the respective copies and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk.

(4) After executing the acknowledgment of receipt of applications, the department of vehicle regulation shall carry out the following action with respect to each application:

(a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The department of vehicle regulation shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;

(b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;

(c) Assure that the vehicle identification number of the subject vehicle is apparently legitimate;

(d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the national crime information center (NCIC) computerized listings of vehicles reported stolen, unless NCIC is not operational and the department has official notification that it is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it;

(e) Compare the computer produced certificate of title for consistency with the owner's application and supporting documents.

(5) When the title application has been completed, and the application examiner at each significant stage has indicated, by placing his unique symbol upon the application in the space provided thereon, that an application has passed the required examinations, the application shall be examined by a title examination certifier.

(6) The title application certifier shall ensure that each application has received the required examinations as indicated by the presence of each required examiner's symbol. Upon satisfying himself that an application has passed the required examinations, the title examination certifier shall place his unique symbol together with the date upon the application.

(7) The department of vehicle regulation shall withhold issuance of a title, until its questions are resolved to its satisfaction, when it finds material discrepancies or has information giving probable cause to believe:

(a) That an applicant is not the lawful owner of a vehicle for which he seeks a title;
(b) His application is not in order;
(c) The documentation supporting an application is insufficient or fraudulent;
(d) The vehicle has an illegitimate vehicle identification number;
(e) The vehicle is stolen; or
(f) That the computer produced certificate of title is not consistent with the owner's application.

(8) When the department of vehicle regulation finds that a certificate of title should be issued for a vehicle, the endorsement of the commissioner of the department of vehicle regulation shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the department of vehicle regulation has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. -------------- (signature), commissioner, department of vehicle regulation, Kentucky transportation cabinet.

Section 19. KRS 186A.195 is amended to read as follows:

(1) If a financing statement and the required fees accompany the application for first title of a vehicle in the name of an owner, the county clerk shall enter the information required by KRS 186A.190(4) into the

automated system so as to produce a certificate of title in Frankfort *or in other locations designated by the commissioner of vehicle regulation as stated in KRS 186A.010 and 186A.045* bearing in addition to any other required information, the information designated by KRS 186A.190(4). The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(2) If a financing statement and the required fees are not received at the time of application for first title of a vehicle in the name of the owner due to owner's residency in another county, the county clerk shall enter into the automated vehicle informational system (AVIS) the name and address of the lienholder and the county where the lien is to be filed. The clerk shall indicate a title is not to be issued until the lien has been filed and fees paid in the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the financing statement and required fees, enter into the automated vehicle information system (AVIS) the date of lien filing and the file number thus enabling the system to produce the title in Frankfort *or in other locations designated by the commissioner of vehicle regulation as stated in KRS 186A.010 and 186A.045.*

Section 20. KRS 186A.215 is amended to read as follows:

(1) If an owner transfers his interest in a vehicle, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title, *including the odometer disclosure statement thereon* to the transferee in the space provided therefor on the certificate of title, *which language and space shall be followed by the words and spaces required for a notarial certificate* [~~and execute the applicable portions of the vehicle transaction record provided for by this chapter,~~] and cause the [~~vehicle transaction record with the~~] certificate of title [~~attached~~] to be delivered to the transferee.

(2) Except as otherwise provided in this chapter, the transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title and registration by executing the applicable portions of the *application for title* [~~vehicle transaction record~~] provided to him by his transferor *or by any county clerk's office. Any unexpired registration shall remain valid upon transfer of said vehicle to the transferee.*

(3) The *application for title* [~~vehicle transaction record~~] with its supporting documentation attached shall promptly be submitted to the county clerk as provided in KRS 186A.115, together with the required fees.

(4) This section shall not apply to a motor vehicle which has had the title surrendered to a county clerk or a hulk vehicle. Hulk vehicle shall mean a motor vehicle or part thereof that is:

(a) In a rusted, wrecked, discarded, worn out, extensively damaged, dismantled and mechanically inoperative condition; or

(b) Of an apparent value of less than two hundred dollars ($200).

Section 21. KRS 186A.220 is amended to read as follows:

(1) Except as otherwise provided in this chapter, when any motor vehicle dealer licensed in this state buys or accepts such a vehicle in trade, which has been previously registered or titled for use in this or another state, and which he holds for resale, he shall not be required to obtain a certificate of title for it, but shall, within fifteen (15) days after acquiring such vehicle, notify the county clerk of the assignment of the motor vehicle to his dealership and pay the required transferor fee.

(2) Upon purchasing such a vehicle or accepting it in trade, the dealer shall obtain from his transferor, a properly executed [~~vehicle transaction record, to include the odometer disclosure statement thereon, together with a properly assigned~~] certificate of title, *to include the odometer disclosure statement thereon.*

(3) The dealer shall execute his application for assignment upon documents designated by the department of vehicle regulation, to the county clerk of the county in which he maintains his principal place of business. Such clerk shall enter the assignment upon the automated system.

(4) The dealer shall retain the properly assigned certificate of title received from his transferor, and may make any reassignments thereon until the forms for dealer assignment on the certificate of title are exhausted. The department of vehicle regulation may, if it deems it warranted, provide a special document to allow for additional dealer assignments without requiring system generated documents.

(5) When he assigns the vehicle to a purchaser for use, he shall deliver the properly assigned certificate of title[~~, and a properly executed vehicle transaction record,~~] to such purchaser, who shall make application for registration and a certificate of title [~~thereon~~].

(6) The department of vehicle regulation shall assure that the automated system is capable of accepting instructions from the county clerk that a certificate of title shall not be produced under a dealer registration situation.

Section 22. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993, 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231,

189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, and 189.940(5).

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, [~~186.200,~~] 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 23. The following KRS sections are repealed:

186.025 Department to furnish list of owners of registered vehicles to department of revenue.
186.030 Form of application.
186.051 Year-round registration system -- Department may designate separate registration years.
186.1911 Replacement of vehicle identification number.
186.200 Contents of bill of sale.
186.670 Application blanks -- Registration receipt and plate.
186A.075 Motor vehicle titles -- When to be effective -- Governor may extend effective date by executive order.

HB 461, AN ACT relating to school buses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.540 is amended to read as follows:

(1) The state board *of* [~~for elementary and secondary~~] education by and with the advice of the state police shall adopt and enforce regulations to govern the design and operation of all school buses used for the transportation of school children when buses are owned and operated by any school district or privately owned and operated under contract with any school district. Such regulations shall by reference be made a part of such a contract with a school district. Every school district, its officers and employes and every person employed under contract by a school district shall be subject to those regulations.

(2) Any officer or employe of any school district who violates any of the regulations or fails to include obligations to comply with the regulations in any contract executed by them on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any of the regulations shall be guilty of breach of contract and his contract shall be canceled after notice and hearing by the responsible officers of such school district.

(3) In the event the ownership of a motor vehicle formerly used as a school bus is transferred, the vehicle shall not be used for any other purpose until it has been painted a color distinguishing it from school buses, and all lettering and markings identifying the vehicle as a school bus are covered or removed.

The Committee Amendment No. 1 to **HB 461** is as follows:

Amend printed copy of **HB 461** on page 2, line 7, after the word "*until*" by deleting the words "*it has been*"

and on page 2, line 8, by deleting the line in its entirety.

HB 610, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.270 is amended to read as follows:

(1) The bureau may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, [~~and~~] recreational vehicles *and vehicles transporting microwave satellite television antennae,* whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay a fee of thirty dollars ($30.00) for each overweight or

overdimension permit; a fee of twenty dollars ($20.00) for each single trip house trailer permit; a fee of eighty dollars ($80.00) for each annual house trailer *or microwave antennae transporter* permit; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) No person shall operate any motor vehicle, mobile home or recreational vehicle in violation of the terms of the permit.

Motions, Petitions, and Communications (continued)

Representative Burch moved that he be recorded as voting "yea" on **HB 434.** Agreed.

The following meetings were announced:

Appropriations and Revenue: Budget Review on Education, Thursday, Noon, Room 109.

Appropriations and Revenue: Budget Review on Human Resources, Noon, February 22.

Transportation: Fifteen minutes after adjournment, Room 104.

Agriculture and Small Business: Wednesday, 9:00 a.m.

Representative F. Smith announced a press conference for Wednesday, 10:00 a.m., Room 106.

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **SB 92,** by Representative Overstreet:

Amend printed copy of **SB 92** on page 3, after line 5, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 394 IS CREATED TO READ AS FOLLOWS:

When any person dies testate as to his personal estate, the surplus, after payment of funeral expenses, charges of administration and debts, shall be distributed as recited in his will, except that personal property or money on hand or in a bank to the amount of seven thousand five hundred dollars ($7,500) shall be exempt from the provisions of KRS Chapter 140."

Floor Amendment No. 1 to **HB 161,** by Representative Perkins:

Amend printed copy of Committee Substitute to **HB 161** on page 5, line 23, by inserting after the word "*than*" the following: "*ten thousand (10,000)*" and by deleting the following: "*one thousand (1,000)*"

Floor Amendment No. 2 to **HB 258,** by Representative Mann:

Amend printed copy of **HB 258** on page 1, beginning on line 11, after the word "*impairment*" by adding the following: "*cases, or for permanent partial occupational disability cases when subsection (1)(c) of this section does not apply,*"

On page 1, line 13, after the word "wage" by adding a ","

On page 1, line 15, after the word "by" by adding the following: "*the greater of either:*"

On page 1, beginning on line 19, after the word "edition" by placing brackets around the "," and by inserting the following after the word "edition": "*; or, by his percentage of occupational disability as determined under KRS 342.620(11),*"

On page 1, on line 21, after the word "*disability*" by deleting the ";" and by bracketing and striking through the following language beginning on page 1, line 21 and ending on page 2, line 2: "or by his percentage of disability as determined under KRS 342.620(11), whichever is greater''

On page 2, line 13, after the word ''*For*'' by inserting ''*significant*'' and after the word ''*disability*'' by inserting ''*cases*''

On page 2, line 25, by deleting the word ''*paragraph*'' and by inserting in lieu thereof ''*subsection*''

On page 4, after line 15, by adding the following section:

''Section 2. KRS 342.620 is amended to read as follows:
As used in this chapter unless the context otherwise requires:

(1) ''Injury'' means any work related harmful change in the human organism, arising out of and in the course of employment including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting such disease is increased by the nature of the employment. ''Injury'' when used generally, unless the context indicates otherwise, shall include an occupational disease.

(2) ''Occupational disease'' means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this section shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employe. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) ''Injurious exposure'' as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which claim is made.

(5) ''Death'' means death resulting from an injury or occupational disease.

(6) ''Carrier'' means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) ''Self-insurer'' is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employes covered by this chapter.

(8) ''Department'' means the department of labor.

(9) ''Director'' means the director of the workers' compensation board.

(10) ''Board'' means the workers' compensation board.

(11) ''Disability'' means a *significant* decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employe is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employe's general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement.

(12) ''Income benefits'' means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) ''Medical and related benefits'' means payments made for medical, hospital, burial and other services as provided in this chapter other than income benefits.

(14) ''Compensation'' means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) ''Medical services'' means medical, surgical, dental, hospital, nursing and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) ''Person'' means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(17) ''Wages'' means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer as evidenced by the employe's federal and state tax returns.

(18) ''Agriculture'' means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with such farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) ''Beneficiary'' means any person who is entitled to income benefits or medical and related

benefits under this chapter.

(20) "United States" when used in a geographic sense, means the several states, the District of Columbia, the commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

Floor Amendment No. 1 to **HB 366,** by Representative F. Smith:

Amend printed copy of **HB 366** on page 1, after line 20, by adding the following new section.

"Section 2. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. *No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work to return to work with his usual employer or to avoid imminent layoff (of which he has been given notice by his employer) by accepting other work, or for leaving work which was concurrent with his most recent work, or for leaving part-time work which preceded his most suitable work to accept such most recent suitable work.*"

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for such additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the department for human resources and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; provided, however, that nothing in this subsection shall restrict the right of the secretary for human resources to disqualify a worker whose employer has refused or failed to notify the department for human resources of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the secretary for human resources prior to the time benefits are paid to such worker; provided, further, that the exercise of such right by the secretary for human resources, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was seasonal, intermittent or temporary in nature, most recent work may be construed as that work last preceding such seasonal, intermittent or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) "Discharge for misconduct" as used in this section shall include but not be limited to separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept

suitable work and running until such worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 68**:

HR 68, A RESOLUTION in loving memory of Jesse Hilton Stuart, one of Kentucky's most beloved sons.

WHEREAS, Jesse Stuart, poet laureate of his native Kentucky, was yesterday laid to rest within "the jutted hills that nurtured" him; and

WHEREAS, Jesse Stuart immortalized his Kentucky land and her people in story and verse; and

WHEREAS, his "common words born in a common heart" have spoken for readers the world over; and

WHEREAS, Jesse Stuart served his people so well, not only as a writer, but as an innovative and dedicated educator and conservationist;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does hereby express its bereavement upon the loss of Jesse Stuart, and does extend to his family its heartfelt sympathy.

Section 2. That when the House does adjourn this day, February 21, 1984, it does so in loving memory of Jesse Hilton Stuart.

Section 3. That a copy of this resolution be sent to the family of Jesse Stuart.

HR 68 was adopted by voice vote.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 579, HB 609;** Representative Burnette, **HB 684;** Representative Endicott; **HB 82, HB 214, HB 215;** Representative Gray, **HB 93;** Representative Reinhardt, **HR 50;** Representative B. Smith, **HB 619;** Representative Stumbo, **HB 219, HB 221, HB 222;** Representative Todd, **HR 50;** Representative Worthington, **HR 48;** Representative Yates, **HB 417, HB 418.**

Representative B. Smith filed a request to have his name withdrawn as a co-sponsor of **HB 685.**

Representative LeMaster moved that the rules be suspended to allow adjournment by voice vote. Agreed.

Representative LeMaster moved that when the House adjourns, it do so until 2:00 p.m., Wednesday, February 22, 1984. Agreed.

Adjournment

Representative LeMaster moved that the House adjourn.

The motion to adjourn was adopted by voice vote.

WEDNESDAY, FEBRUARY 22, 1984

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Marion Logsdon, Associate Minister of Music, Stithton Baptist Church, Radcliff, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cowan.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 21, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 106, SB 156, SB 178, SB 183, SB 190, HB 17** with Senate Amendment, **HB 44, HB 45, HB 57, HB 214, HB 215,** and **HB 420.**

Introduction of Bills and Resolutions

HB 710, by Representative Gray: AN ACT relating to mussels.

HB 711, by Representative Pearman and Reinhardt: AN ACT relating to educational improvement and making an appropriation therefor.

HB 712, by Representatives Turner, Holloway, Bruce, Burch, Patrick, Endicott, Harper, Lile, Caldwell, Freibert, Fryman, Allen, Moore, and Todd: AN ACT relating to the authority for enactment, promulgation, and review of administration regulations.

HB 713, by Representative Blevins: AN ACT relating to public assistance.

HB 714, by Representative Blevins: AN ACT relating to foster care.

HJR 70, by Representatives F. Smith and Rapier: A JOINT RESOLUTION establishing the Bernheim Forest Deer Management Task Force.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 689, HB 690, HB 691, HB 704.**

Banking and Insurance: **HB 700.**

Cities: **HB 705, HB 678, HB 687, HB 699, HB 707.**

Counties and Special Districts: **HB 703.**

Education: **HB 698, SB 226, SB 230, HJR 69.**

Energy: **HB 696.**

Health and Welfare: **HB 697.**

Judiciary-Civil: **HB 701, HB 708.**

Judiciary-Criminal: **HB 688, HB 695.**

Labor and Industry: **HB 693, HB 694, SB 239.**

Natural Resources and Environment: **HB 692.**

State Government: **HB 702, HB 706, HB 709.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 587.**

Report of Committees

The Committee on Rules reported **HB 161, HB 500, HB 523, HB 533, HB 534, HB 537, SB 14,** and **SCR 8** have been posted for passage in Orders of the Day, February 23, 1984.

The Committee on Rules reported the following Bills have been recommitted.

HB 323 to the Committee on State Government.

HB 366 to the Committee on Banking and Insurance.

The Committee on Agriculture and Small Business reported **HB 602** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 602, AN ACT relating to farming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires, the term:

(1) "Agricultural land" means land used for farming;

(2) "Farming" means the cultivation of land for the production of agricultural crops; livestock or livestock products; poultry or poultry products; milk or dairy products; or fruit or other horticultural products. It shall not include the following:

(a) Production of timber or forest products;

(b) Contracts whereby a processor or distributor of farm products or supplies provides spraying, harvesting, or other farm services;

(c) Experimentation related to the production of pesticides, herbicides, or insecticides; and

(d) Production of seed stock.

(3) "Family farm" means an unincorporated farming unit owned by one (1) or more persons residing on the farm or actively engaging in farming;

(4) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by the majority of the stockholders who are members of a family related to each other within the third degree of kindred, and at least one (1) of whose stockholders is a person residing on or actively operating the farm, and none of whose stockholders are corporations; provided, however, that a family farm corporation shall not cease to qualify as such hereunder by reason of any devise or bequest of shares of voting stock; and

(5) "Authorized farm corporation" means a corporation whose shareholders do not exceed ten (10) in number, whose shareholders are all natural persons or estates, whose shares are all of one (1) class, and whose revenues from rent, royalties, dividends, interest and annuities do not exceed twenty percent (20%) of its gross receipts.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS Chapter 271A, no domestic or foreign corporation shall engage in farming, except as provided in Section 3 of this Act. Nor shall any corporation, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or capable of being used for farming, except as provided in Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The provisions of Section 2 of this Act shall not apply to:

(1) Agricultural land and land capable of being used for farming which:

(a) Was owned by a corporation on the effective date of this Act, including the normal expansion of such ownership at a rate not to exceed twenty percent (20%), measured in acres, in any five-year period; or

(b) Is leased by a corporation in an amount, measured in acres, not to exceed the acreage under lease to such corporation on the effective date of this Act and the additional acreage required for normal expansion at a rate not to exceed twenty percent (20%) in any five-year period; and

(c) The additional acreage necessary to meet the requirements of pollution control regulations.

(2) A family farm corporation or an authorized farm corporation;

(3) Any national or state chartered bank or trust company authorized to conduct business in this state when operating a farm as a trustee or as an administrator or executor of an estate;

(4) A bona fide encumbrance taken for purposes of security;

(5) Agricultural lands acquired by a corporation by process of law in the collection of debts; or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, however, that all lands so acquired be disposed of within ten (10) years after acquiring the title thereto; and further provided that the land so acquired shall not be used for farming during the ten-year period except under a lease to a family farm unit, a family farm corporation, or an authorized farm corporation. The ten-year limitation period shall be deemed a convenant running with the title to the land against any corporate grantee, assignee, or the successor of such corporation;

(6) Gifts of agricultural lands, either by grant or devise, to any nonprofit corporation;

(7) A state-supported farm operated for teaching, research, or experimental purposes; provided, however, that commercial sales from the farm shall be incidental to the teaching, research, or experimental objectives; and

(8) Agricultural land acquired by a corporation other than a family farm corporation or authorized farm corporation for immediate or potential use in nonfarming purposes. A corporation may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corporation, an authorized farm corporation, or except when controlled through ownership, options, leaseholds or other agreements by a corporation which has entered into an agreement with the federal government pursuant to the new communities act of 1968, title IV of the housing and urban development act of 1968, 42 U.S.C.A. 3901-3914, as amended, or a subsidiary or assign of such a corporation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation engaged in farming or proposing to commence farming shall file with the secretary of state a report containing:

(1) The name of the corporation and its place of incorporation;

(2) The address of the registered office of the corporation in this state, the name and address of its registered agent in this state, and in the case of a foreign corporation, the address of its principal office in its place of incorporation;

(3) The acreage and location listed by county of each lot or parcel of land in this state owned or leased by the corporation and used for farming; and

(4) The names and addresses of the officers and the members of the board of directors of the corporation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The report of a corporation seeking to qualify hereunder as a family farm corporation or an authorized farm corporation shall contain, in addition:

(1) The number of shares owned by persons residing on the farm or actively engaged in farming, and their relatives within the third degree of kindred;

(2) The name, address and number of shares owned by each shareholder; and

(3) A statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No corporation shall commence farming until the secretary of state has inspected the report required by Section 4 of this Act and certified that its proposed operations comply with the provisions of Section 4 and Section 5 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Every corporation, except as provided in subsection (2) of this section, engaged in farming shall, prior to April 15 of each year, file with the secretary of state a report containing the information required in Section 4 and 5 of this Act based upon its operations in the preceding calendar year and its status at the end of the year.

(2) A corporation certified by the secretary of state as a qualified family farm corporation or as a qualified authorized farm corporation shall report as required by Sections 4 and 5 of this Act by April 15 of the fifth year following certification.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

If the attorney general has reason to believe that a corporation is in violation of this Act, he shall commence an action in the circuit court in which any agricultural lands relative to such violation are situated, or if situated in two (2) or more counties, in any county in which a substantial part of the lands are situated. If the court finds that the lands in question are being held in violation of this Act, it shall enter an order so declaring.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The attorney general shall file any order under Section 8 of this Act for record with the county clerk of each county in which any portion of said lands are located. Thereafter, the corporation owning such land shall have a period of five (5) years from the date of such order to divest itself of such lands. This five-year limitation period shall be deemed a covenant running with the title to the land against any corporate grantee, assignee, or the successor of such corporation. Any lands not so divested within the time prescribed shall be sold at public sale in the manner prescribed by order of the court.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation which fails to file any report required under the provisions of this Act or wilfully files false information on any report required under the provisions of this Act shall be fined not more than one thousand dollars ($1,000).

Section 11. This Act shall be known as the Family Farm Act of 1984.

The Committee on State Government reported **HB 285, HB 445, HB 456** with Committee Amendment attached thereto, **HB 596, HB 650** with Committee Amendment attached thereto, **HB 634, HJR 20, SCR 14,** and **HB 558** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 285, AN ACT relating to legal representation for legislators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

The general assembly shall provide for legal representation for legislators in legal actions against them, when such actions relate to their legislative activities. The board of ethics of the general assembly shall determine, on the basis of the facts presented to it in each case, whether activities are legislative in nature.

HB 445, AN ACT relating to out-of-state contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS

FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Contracting" means undertaking or offering to undertake for remuneration to construct, erect, alter, repair or demolish any building, bridge, highway, railroad, excavation or other structure, project, development or improvement, public or private, or the supervision of such projects. This definition shall not include architects or engineers duly licensed by the state and acting solely in their professional capacity.

(2) "Out-of-state contractor" means any person, firm, or corporation who engages or offers to engage in contracting in the Commonwealth of Kentucky and does not have its main business office within the Commonwealth.

(3) "Department" means the department of housing, buildings and construction.

(4) "Commissioner" means the commissioner of the department.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Any out-of-state contractor engaged in contracting in this Commonwealth shall be required to submit evidence to the commissioner or his designee that he is qualified to engage in contracting, and receive a permit as hereinafter provided. It shall be unlawful for any out-of-state contractor to engage in or offer to engage in contracting in the Commonwealth, unless such contractor has received a permit under the provisions of this chapter.

(2) No permit shall be issued to an out-of-state contractor unless the contractor has a registered agent in the Commonwealth of Kentucky through whom process may be served.

(3) No permit shall be issued to an out-of-state contractor unless the contractor demonstrates financial responsibility to the satisfaction of the commissioner.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Anyone desiring an out-of-state contractor's permit shall make written application to the department on forms prescribed by the department which shall be accompanied by an application fee of one hundred dollars ($100).

(2) If the application is satisfactory to the department, the applicant shall be entitled to an examination to determine his qualification. This examination may be written or oral or both.

(3) The department shall issue guidelines, develop procedures, and specify content for the examination. It also shall make the criteria of passage known in advance and shall guarantee as objective and valid examination as possible.

(4) An out-of-state contractor's permit shall state the general construction classifications or the specialty classification or both in which the contractor is qualified to engage in as a contractor and for each classification shall list the monetary limitations thereon as determined by the department. Classifications shall be defined by regulation.

(5) The department shall promulgate rules and regulations to administer this Act in accordance with the Kentucky building code.

(6) An out-of-state contractor holding a valid permit must follow all rules, regulations, codes or directives which govern the activities of contracting in the Commonwealth of Kentucky.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The permit shall be valid for twelve (12) months from the day of issuance and shall become invalid unless renewed.

(2) Renewal may be effected thirty (30) days prior to the lapsing date, or a grace period of fifteen (15) days after that date. Renewal application shall be accompanied with a financial statement which the commissioner may, at his discretion, require to be audited, a report of any personal or corporate bankruptcies and other such information as the department may require and by payment of a fee of fifty dollars ($50).

(3) No renewal permit shall be granted until the department receives satisfactory evidence that the licensee has paid all business taxes due to the state or any of its counties and municipalities for the preceding year, if the licensee was liable for such tax.

(4) The department shall notify each licensee by mail the date of expiration of his permit not later than forty-five (45) days prior to such date.

(5) The renewal fee after the expiration date shall be increased by ten percent (10%) for each month or fraction of a month that payment of renewal is delayed starting fifteen (15) days after such date; however, the maximum fee for a delayed renewal shall not exceed one hundred dollars ($100).

(6) No contractor shall be qualified to receive a renewal of permit when he has been in default in complying with the provisions of this chapter for a period of one (1) year and in such event, the contractor, in order to qualify under the law, shall make a new application as in the case of the issuance of the original license. The commissioner, at his discretion, may exempt him from an examination.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may suspend or revoke a permit issued under this chapter for the following reasons:

(a) Fraud or deceit in securing the permit;

(b) Violation of the Kentucky building code or any other applicable laws; or

(c) Violation of any provision of this chapter or of any regulation promulgated pursuant to this chapter.

(2) Any action taken under the provisions of this section shall be subject to administrative procedures promulgated by regulations of the department to insure that due process is afforded.

(3) Any action of the commissioner may be appealed to the Franklin circuit court in the manner prescribed by law.

Section 6. KRS 198B.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 198B.140, or of the uniform state building code, or any directive or order issued pursuant thereto shall be fined not less than ten dollars ($10.00) nor more than one thousand dollars ($1,000). Each day the violation continues shall constitute a separate offense.

(2) Any person who violates the provisions of KRS 198B.310 to 198B.330 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), or be imprisoned for not more than one (1) year, or both.

(3) Any person who violates any provision of KRS 198B.410 to 198B.540, or regulation issued thereunder, shall be fined a sum of five hundred dollars ($500) for each offense.

(4) Any out-of-state contractor who fails to secure a permit as provided by this Act shall be guilty of a class D felony.

HB 456, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing officer" means the officer or employe or group of officers or employes authorized by law to make appointments;

(2) "Board" means the personnel board created by KRS 18A.045;

(3) "Career employe" shall mean a state employe with twenty (20) or more years of permanent full-time state service, or the part-time employment equivalent of at least twenty (20) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof.

(4) "Certification" means the referral of the name of one (1) or more qualified prospective employes by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

(5) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(6) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(7) "Commissioner" means the commissioner of the department of personnel as provided for in KRS 18A.015;

(8) "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;

(9) "Department" means the department of personnel provided for in KRS 18A.015 unless the context indicates otherwise;

(10) *"Differential pay" means an additional wage reflecting differences in conditions related to the time of day in which like work is performed;*

(11) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.005 to 18A.200 and who has qualified to be placed on a register;

(12)[~~(11)~~] "Emergency employe" means an employe appointed without regard to the examination requirements of KRS 18A.005 to 18A.200 to any position by reason of a governmental emergency, whose appointment is not to exceed thirty (30) working days in duration and is nonrenewable;

(13)[~~(12)~~] "Employe" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(14)[~~(13)~~] "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving

duties requiring the services of one (1) person;

(15)[~~(14)~~] "Probation" means the period of service following appointment to any position under KRS 18A.005 to 18A.200 which requires special observation and evaluation of an employe's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110. An employe serving the probationary period is known as a "probationary employe";

(16)[~~(15)~~] "Promotion" means a change of rank of an employe from a position in one (1) class to a position in another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(17)[~~(16)~~] "Provisional employe" means any employe appointed on a temporary or interim basis to a permanent position under KRS 18A.005 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110;

(18)[~~(17)~~] "Reemployment list" means the separate list of names of persons reduced in force by reason of lack of appropriations, curtailment of program or abolishment of position or of organizational unit, and through no fault of their own, who have requested the opportunity for further consideration of state employment. Reemployment lists are used as provided in KRS 18A.110 and subject to KRS 18A.130 and 18A.135;

(19)[~~(18)~~] "Register" means any official list of eligibles for a particular class placed in rank order according to the examination records, maintained for use in making original appointments or promotions to positions in the classified service;

(20)[~~(19)~~] "Status" means the acquisition of tenure with all rights and privileges appertaining thereunto after satisfactory completion of the probationary period by an employe in the classified service;

(21)[~~(20)~~] A "temporary position" is one created for a defined period of time not to exceed six (6) months and not renewable; a "temporary employe" is one (1) appointed to such a temporary position. A "seasonal position," although temporary in duration in the foregoing sense, coincides in duration with a particular season or seasons of the year, but may not exceed eleven (11) months duration, and may recur regularly from year to year; a "seasonal employe" is one appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;

(22)[~~(21)~~] A "federally funded time-limited position" is one created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided. A "federally funded time-limited" employe is one appointed to such position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in KRS 18A.005 to 18A.200;

(23)[~~(22)~~] "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service;

(24)[~~(23)~~] A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between April 28, 1952, and July 1, 1955 or between August 6, 1964 and May 7, 1975.

SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of personnel shall develop a uniform differential pay plan for all unclassified employes who work on second or third shifts.

(2) The differential pay plan shall not apply in cases where all employes are required to rotate on a regular basis between first, second and third shifts.

The Committee Amendment No. 1 to **HB 456** is as follows:

Amend printed copy of **HB 456** on page 6, line 8, after the word "*all*" by inserting the word "*classified*" and deleting the word "*unclassified*".

HB 596, AN ACT relating to sick leave credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky employes retirement system or the state police retirement system [~~who is employed by the Commonwealth and~~] whose retirement date is *July 14, 1984* [~~August 1980~~] or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.702 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.702.

(3) The provisions of this section shall not apply to a participating agency whose employes are not employed by the Commonwealth until the agency certifies to the board that a sick leave program has been formally adopted and is universally administered within the agency.

HB 650, AN ACT relating to candidacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Each candidate for any state, county, municipal or district office shall file with his notification and declaration forms if he is a candidate in a primary election, or with his petition of nomination if his name will appear on the ballot only in a general election, a sworn signed statement that he has no debts and obligations, including the candidate's personal note, for expenses incurred in a previous campaign for an elective office.

(2) The accuracy of the candidate's statement required by subsection (1) of this section may be questioned by any qualified voter entitled to vote for such candidate or by an opposing candidate by summary proceedings consisting of a motion before the circuit court of the judicial circuit in which the candidate whose statement is questioned resides. The motion shall be tried summarily and without delay. Proof may be heard orally, and upon motion of either party shall be officially reported. If the circuit judge of the circuit in which the proceeding is filed is disqualified or absent from the county or is himself a candidate, the proceeding may be presented to, heard and determined by the circuit judge of any adjoining judicial circuit.

(3) In any action or proceeding under this section the burden of proof as to the accuracy of the statement of a candidate shall be on the person challenging the statement of a candidate.

(4) If the court finds the statement is not accurate and that the candidate does have debts and obligations for expenses incurred in a previous campaign, it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the circuit court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the circuit court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.

(5) No person shall approach the circuit judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.

Section 2. This Act shall become effective January 1, 1985.

The Committee Amendment No. 1 to **HB 650** is as follows:

Amend printed copy of **HB 650** on page 1, line 6, after "*petition*" by inserting "*or certificate*";

on page 1, line 7, after "*general*" by inserting "*or special*"; and

on page 1, line 8, after "*obligations*" by deleting ","; and

on page 1, line 9, by deleting "*including the candidate's personal note,*"; and

on page 1, line 10, after "*office*" by inserting "*, including the candidate's personal note and and, except for independent expenditures as defined in KRS 121.150(1), that he has no debts and obligations which have been incurred on behalf of his candidacy*"; and

on page 2, line 13, after "*election*" by inserting "*offices*" and by deleting "*officers*".

HB 634, AN ACT relating to appointments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The following statutes are repealed to the extent that they limit the governor's power of appointment:

(a) By requiring the appointment of persons with certain qualifications as members of boards or commissions;

(b) By requiring the appointment of certain persons as ex-officio members of boards or commissions;

(c) By requiring the appointment of certain persons from lists submitted by persons or organizations as members of boards or commissions;

(d) By directing individuals other than the governor to make appointments to boards or commissions;

(e) By requiring confirmation of the governor's appointment by either house of the general assembly, or by the legislative research commission or a subcommittee thereof;

(f) By limiting, in any other manner, the governor's power to make such appointments.

KRS 6.226, 6.810, 8.030, 11.025, 12.050, 12.070, 14.020, 15.315, 15.705, 15A.020, 16.050, 18.160, 18.180, 18A.025, 18A.045, 18A.050, 18A.245, 21.530, 21.550, 21.560, 26A.090, 31.015, 31.020, 34.010, 35.022, 36.020, 36.025, 36.130, 36.310, 40.150, 42.013, 42.014, 42.023, 42.027, 42.029, 42.330, 42.400, 42.500, 44.070, 45.530, 58.500, 61.360, 61.645, 61.784, 61.886, 64.742, 64.770, 83.346, 91A.370, 95A.020, 100.133, 103.2101, 117.015, 121.110, 131.315, 146.090, 146.425, 147.580, 147.585, 147A.002, 147A.200, 147B.015, 148.011, 148.225, 148.242, 150.022, 151.560, 152.212, 152.956, 152A.050, 152A.060, 152A.503, 153.215, 153.220, 153.240, 153.320, 153.380, 153.410, 154.020, 154.410, 154.600, 154.675, 156.031, 156.490, 156.710, 156.715, 157.815, 158.680, 163.038, 163.505, 164.010, 164.130, 164.140, 164.293, 164.320, 164.600, 164.746, 164.820, 164A.050, 164A.805, 165A.340, 168.040, 171.130, 171.240, 171.345, 171.3801, 171.381, 171.384, 171.385, 171.420, 173.340, 173.810, 174.015, 174.105, 175A.040, 176.020, 177.951, 182.300, 182.305, 183.203, 183.862, 190.058, 194.030, 194.090, 196.190, 198A.030, 198B.020, 205.540, 205.590, 210.035, 211.740, 214.510, 216A.040, 216B.025, 217B.505, 224.012, 224.205, 224.515, 224.2203, 224A.030, 227.560, 227.565, 230.220, 230.265, 230.413, 230.510, 230.620, 236.020, 241.030, 246.120, 247.090, 247.417, 247.575, 248.510, 258.115, 260.020, 260.570, 260.685, 278.050, 278.060, 287.012, 287.025, 293,040, 304.2-060, 311.410, 311.530, 311.902, 312.025, 313.200, 314.121, 315.150, 316.180, 317.430, 317A.030, 318.071, 319.020, 320.230, 321.230, 322.230, 322.250, 323.150, 323.170, 323A.170, 324.281, 325.230, 326.020, 327.030, 330.050, 331.040, 334.140, 334A.070, 335.050, 336.030, 336.162, 337.522, 338.051, 338.071, 339.230, 341.110, 342.123, 342.215, 342.230, 342.500, 343.020, 343.030, 344.510, 345.120, 346.030, 350.035, 350.310, 351.090, 351.105, 351.250, 353.530, 353.565, 367.130, 423.010, 439.302, 439.310, 439.320, and 441.615.

(2) Members of boards and commissions who are in office on July 14, 1984, shall continue to serve until the governor appoints their successors.

HJR 20, A JOINT RESOLUTION designating Millersburg Military Institute as the military school of the Commonwealth of Kentucky and empowering the Governor to sign its diplomas.

WHEREAS, Millersburg Military Institute, since 1893, has served the Commonwealth and the nation by preparing young men and women for life and leadership roles consistent with the highest standards of education; and

WHEREAS, the effectiveness of Millersburg Military Institute is illustrated by the alumni who have become leaders in business, education, government, the military and the many other vocations they have pursued; and

WHEREAS, Millersburg Military Institute has maintained its educational quality through periods of economic stress and social change and has begun its tenth decade with a renewed dedication toward academic excellence;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the General Assembly recognize Millersburg Military Institute for its many years of valuable service to the youth of Kentucky by designating it the official military institute of the Commonwealth and bestowing upon it all privileges due such honor.

Section 2. That the Governor be empowered to sign diplomas of the future graduates of Millersburg Military Institute and that he be encouraged to do so upon request of the officials of the institute.

SCR 14, A CONCURRENT RESOLUTION requesting President Reagan, the Congress of the United States, and the United Nations Commission on Human Rights to continue their protest of the persecution and repression of the members of the Baha'i Faith in Iran.

WHEREAS, the members of the Baha'i Faith have experienced severe repression and persecution since the inception of the revolutionary regime in Iran, and this persecution is growing in its severity; and

WHEREAS, hundreds of Baha'is have been dismissed from their jobs or deprived of their businesses and trade licenses, and no children of Baha'i parentage have been allowed to register for school at any level; and

WHEREAS, all Baha'i holy places, properties and cemeteries have been confiscated or destroyed; and

WHEREAS, over three hundred Baha'is are currently imprisoned or have disappeared; and

WHEREAS, over one hundred and forty Baha'is have been assassinated or executed in Iran since 1978, and those executed could have spared their lives by recanting their faith; and

WHEREAS, in June of 1983 the authorities in Shiraz executed seventeen Baha'is, of whom ten were women and teenage girls who were devoted to the religious education of Baha'i children; and

WHEREAS, the Iranian government issued an edict on August 29, 1983, outlawing Baha'i institutions and administrative bodies, and making membership in them a criminal offense; and

WHEREAS, the Baha'i national administrative body of Iran, in compliance with the Baha'i principle of obedience to government, disbanded itself and some six hundred democratically elected local administrative bodies; and

WHEREAS, despite the obedience of the Baha'is to the government of Iran, the arrest of Baha'is and the denial of their basic human rights continues; and

WHEREAS, the members of the Kentucky General Assembly deplore the religious persecution of the Baha'is and the denial of their basic human rights; and

WHEREAS, President Reagan, the Congress of the United States and the United Nations Commission on Human Rights have publicly condemned the persecution of the Baha'is of Iran;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

That President Reagan, the Congress of the United States and the United Nations Commission on Human Rights be commended for their protest of the religious persecution of the Baha'is of Iran, and urged to continue that protest, and further, that copies of this resolution be delivered to President Reagan, to each member of the Kentucky Congressional Delegation, to the Secretary General of the United Nations, and to the Local Spiritual Assembly of the Baha'is of Lexington, Kentucky.

HB 558, AN ACT relating to small or minority business purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.470 is amended to read as follows:

(1) "Agency" means any office, department, bureau or other institution in Kentucky state government which awards contracts for purchase of property, goods or service;

(2) "Cabinet" means the finance and administration cabinet;

(3) "Small *or minority* business set aside" means a purchase or contract request for which bids are to be invited and accepted only from small *or minority* businesses by the cabinet;

(4) "Small *or minority* business" shall be defined by the administrative regulations promulgated by the cabinet.

Section 2. KRS 45.480 is amended to read as follows:

The cabinet may within ninety (90) days of the passage of KRS 45.470 to 45.500 promulgate administrative regulations defining standards regarding classifications and definitions of small *or minority* businesses as they relate to KRS 45.470 to 45.500. These regulations may be adjusted as needed by the secretary of the finance and administration cabinet in order to insure proper classification of small *or minority* businesses.

Section 3. KRS 45.490 is amended to read as follows:

(1) The cabinet shall designate as small *or minority* business set aside state contracts of goods, equipment, construction or services for which purchase has been requested by or for any agency whenever there is a reasonable expectation that bids can be obtained from at least three (3) small *or minority* businesses capable of furnishing the desired property or services at a fair and reasonable price. Such designation should be made prior to the advertisement for bids, and the advertisement shall indicate this invitation as a small *or minority* business set aside.

(2) When an item has been designated as a small *or minority* business set aside, invitations for bids shall be confined to small *or minority* businesses and bids from other bidders may be rejected.

(3) The cabinet shall award contracts to the lowest and best responsible bidder meeting specifications.

Section 4. KRS 45.500 is amended to read as follows:

If less than three (3) small *or minority* businesses are considered as capable of meeting the specifications and terms of the invitations for bids or if the cabinet determines that the lowest and best bid results in an unreasonable price, the agency shall reject all bids and withdraw the designation of small *or minority* business set aside. Notification of reasons for rejection shall be given to the bidders. The cabinet may then seek additional bids without reference to the small *or minority* business designation.

Section 5. KRS 45.510 is amended to read as follows:

KRS 45.470 to 45.500 may be cited as a Kentucky Small *or Minority* Business Purchasing Act.

The Committee Amendment No. 1 to **HB 558** is as follows:

Amend printed copy of **HB 558** on page 1, line 9, by adding "*small*" between "*or*" and "*minority*"; and

on page 1, line 11, by adding "*small*" between "*or*" and "*minority*"; and

on page 1, line 13, by adding "*small*" between "*or*" and "*minority*"; and

on page 1, line 21, by adding "*small*" between "*or*" and "*minority*"; and

on page 2, line 4, by adding "*small*" between "*or*" and "*minority*"; and

on page 2, line 7, by adding "*small*" after "*or*"; and
on page 2, line 12, by adding "*small*" between "*or*" and "*minority*"; and

on page 2, line 16, by adding "*small*" after "*or*"; and
on page 2, line 18, by adding "*small*" after "*or*"; and

on page 2, line 20, by adding "*small*" between "*or*" and "*minority*"; and

on page 2, line 26, by adding "*small*" between "*or*" and "*minority*"; and

on page 3, line 5, by adding "*small*" between "*or*" and "*minority*"; and

on page 3, line 8, by adding "*small*" between "*or*" and "*minority*"; and

on page 3, line 13, by adding "*Small*" between "*or*" and "*Minority*".

The Committee Amendment No. 2 to **HB 558** is as follows:

Amend printed copy of **HB 558,** by inserting "small" between "or" and "minority" in the title.

The Committee on Transportation reported **HB 178,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 178, AN ACT relating to transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) Any person transporting resources over the roads of the resources producing counties and the resources impact counties and who has been issued a certificate of weight rating by the transportation cabinet to operate motor vehicles, may operate on any roads and bridges in those counties up to the limits of their weight rating unless a road or bridge has been designated an imminent danger to the public or carries a restrictive weight rating.

(2) The secretary of the transportation cabinet may designate a road or bridge as an imminent danger to the public or restrict the weight rating after careful analysis of the structural integrity of the bridge or road, the traffic on the bridge or road and the history of weights routinely carried by the bridge or road.

(3) A designation of a road or bridge by the transportation cabinet as an imminent danger to the public or as a restricted weight rating shall be a final ruling of the cabinet subject to appeal within sixty (60) days for a trial de novo on the issues of fact into the district court of the county in which the road or bridge in question lies. Such data used by the transportation cabinet in making their final ruling shall be made immediately to interested parties upon request. In the proceedings before the district court, the transportation cabinet shall have the burden of proof to establish either an imminent danger to the public or a restricted weight rating for a bridge or road. The burden of proof shall consist of an analysis of the structural integrity of the bridge or road and the necessity for the reduced weight rating.

(4) The presentation of proof by the transportation cabinet in the district court may be rebuttable by evidence presented showing a history of weights routinely carried by the bridge or road which contradicts the findings of the transportation cabinet. Any evidence presented to the district court during the trial de novo shall be inadmissible in any subsequent civil or criminal proceedings.

(5) After a final determination of a bridge or road as an imminent danger to the public, the transportation cabinet shall, within thirty (30) days after such designation establish the priority ranking of that bridge or road.

(6) The process for determining the imminent danger designation shall be duly promulgated as regulations.

(7) The transportation cabinet shall establish by regulation a priority rating system for the scheduling of all repairs and reconstruction of bridges and roads based upon criteria such as availability of alternate routes and tons per mile carried by those roads or bridges, with those roads or bridges ranking highest receiving the priority.

(8) Any designation of a road or bridge as an imminent danger to the public or of a restricted weight may be withdrawn at any time within the sole discretion of the cabinet.

(9) The transportation cabinet shall allow anyone using a road or bridge to make repairs themselves in accordance to accepted guidelines and standards or contribute funds to the emergency rood fund designated specifically to the repair of a specific road or bridge.

Section 2. KRS 177.971 is amended to read as follows:

(1) "Natural resources producing county" shall mean a county in which natural resources were severed within the meaning of KRS Chapter 143 or 143A [~~and upon which severance the tax applicable thereto was reported and remitted prior to January 1, 1980~~].

(2) "Natural resources impact county" shall mean a county [~~in which natural resources were not severed within the meaning of KRS Chapter 143 or 143A after July 1, 1982, but one~~] through which natural resources are regularly transported over public highways, roads, *bridges,* and streets designated as a part of the natural resources road system by the transportation cabinet *unless it qualifies as a natural resources producing county as defined above.*

(3) "Natural resources"[~~, for purposes of KRS 177.972 to 177.975,~~] shall mean all forms of minerals including but not limited to rock, stone, limestone, and products thereof, coal, *coal refuse, coal mining waste,* shale, gravel, sand, clay, oil, fluorspar, zinc, natural gas, and natural gas liquids which are contained in or on the soils or waters of this state.

(4) "Imminent danger to the public" means the existence of any adverse condition of a bridge of such severity that a reasonable expectation of structural failure exists.

Section 3. KRS 177.972 is amended to read as follows:

(1) On or before August 15, 1982, and each year thereafter, the transportation cabinet shall publish a directory, including supporting maps and other documents, designating the official natural resources road system in natural resources impact and natural resources producing counties which shall include all public highways, roads, *bridges,* and streets over which quantities of natural resources, sufficient to significantly affect the condition and state of repair of such highways, roads, *bridges,* and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official natural resources road system and the total ton-miles within each natural resources impact and natural

resources producing county for said preceding fiscal year.

(2) Every *producer or processor* [~~person~~] shipping or transporting natural resources[~~, and every carrier hired or common carrier hauling natural resources~~] over the public highways, roads, *bridges,* and streets, shall file with the transportation cabinet such information and at such intervals as the cabinet shall designate by regulation duly adopted for the purpose of identifying those highways, roads, *bridges,* and streets comprising the natural resources road system and the quantities of natural resources transported thereon, in order that the cabinet can accurately calculate total ton-miles within each natural resource impact and natural resource producing county. *Information furnished to the Kentucky department of surface mining pursuant to the permitting requirements of KRS Chapter 350 regarding the public road transportation plan may be submitted to the transportation cabinet to satisfy the reporting requirements of this subsection and such transportation plan must be annually updated to reflect changes* [~~Unless an employe-employer relationship otherwise exists, the securing of a natural resource recovery road permit under KRS 189.276 shall not be construed as establishing such a relationship between the individual or entity securing the permit and the individual or entity hauling under the permit~~].

(3) The department of revenue shall make available to the transportation cabinet coal severance and processing tax and natural resource and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (2) above. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; in the event the data cannot be furnished without revealing the identity of an individual taxpayer, it shall be withheld.

Section 4. KRS 189.276 is amended to read as follows:

(1) *Upon application by a motor carrier of natural resources* the transportation cabinet shall issue *certificates of weight rating* [~~resource recovery road hauling permits~~] for the operation of motor carriers in natural resources producing counties or natural resources impact counties for the purpose of transportation of natural resources in vehicles whose gross weight, including vehicle and load, *or axle weight* exceed the limits prescribed by KRS *Chapters 138, 186, and* [~~Chapter~~] 189. *In no case shall the motor carriers exceed the federal limitations prescribed for interstate highways* [~~Any individual, partnership, joint venture, association or corporation engaged in severing or processing natural resources, who has filed an application for a certificate of registration in accordance with KRS 143.030 or 143A.050 and who elects to apply for a resource recovery road hauling permit, shall be issued a permit upon application. Any operator currently engaged in severing natural resources may at his option apply for the resource recovery road hauling permits by September 1, 1982, and remit the appropriate fees on or before October 1, 1982. After October 1, 1982, the resource recovery road hauling permit fee shall be paid at the same time and in the same manner as the tax levied under KRS 143.020 and 143A.020~~].

(2) *Such application shall contain such information and be filed in a manner as prescribed by the transportation cabinet. The certificate shall be issued annually and shall expire on March 31 of the year following the year it was issued or as set out by KRS 186.020* [~~Any resource recovery road hauling permit shall be issued upon the terms and conditions as the cabinet may require. The permit shall remain in effect as long as the terms, conditions and agreements set forth in the permit are complied with by the permittee~~].

(3) [~~The secretary shall be responsible for the issuance of resource recovery road hauling permits and establishment of permit conditions. The secretary, in the establishment of permit conditions, may consider road conditions, tons of natural resources being transported and strength of bridges on proposed routes. The secretary shall not allow motor carriers to exceed the limits prescribed in KRS 189.222 on interstate highways.~~

~~(4)~~] The cabinet shall require a fee for *certificates of weight rating. Such fee shall be computed as follows:*

Declared Gross Weight of Vehicle and Any Towed Unit	*Certificate of Weight Rating Fee*
6,001- 10,000	*$ 24.00*
10,001- 14,000	*30.00*
14,001- 18,000	*50.00*
18,001- 22,000	*132.00*
22,001- 26,000	*160.00*
26,001- 32,000	*216.00*
32,001- 38,000	*300.00*
38,001- 44,000	*474.00*
44,001- 55,000	*544.00*
55,001- 62,000	*588.00*
62,001- 73,280	*750.00*
73,281- 82,000	*840.00*
82,001- 90,000	*940.00*
90,001-100,000	*1,050.00*
100,001-110,000	*1,200.00*
110,001-120,000	*1,350.00*

120,001-130,000 1,500.00

(4) The certificate of weight rating fee shall be in lieu of the fee set out in KRS 186.050 and the tax set out in KRS 138.660(3).

(5) In no event shall a motor vehicle having fewer than eighteen (18) weight bearing wheels be issued a certificate of weight rating exceeding 100,000 pounds.

(6) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of coal resources from the point at which such coal resources is mined to a railhead or tipple, where such railhead or tipple is located at a point not more than one-hundred (100) air miles from the point at which such coal is mined shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of weight rating shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(7) Operating a motor vehicle transporting weights in excess of the weights as allowed in the certificate of weight rating shall subject the motor vehicle owner to a fine of not less than two hundred dollars ($200) nor more than five hundred dollars ($500) for each violation and said sums shall be deposited in the natural resource recovery road fund.

(8) A tolerance of not more than five percent (5%) of the certified weight rating shall be permitted before a motor carrier is deemed to have violated the provisions of this section [~~the issuance of a resource recovery road hauling permit of four-tenths (4/10) of one percent (1%) of the gross value of natural resources, or the average value of such natural resources as developed and computed by information supplied to the department of revenue, whichever is less, transported by the permittee over the roads of the Commonwealth, except as provided by subsection (4) of KRS 177.973. For purposes of this section, "gross value" shall mean gross value as defined in KRS 143.010(6) and 143A.010(5). Any motor carrier transporting natural resources under an approved resource recovery road hauling permit shall be exempt from the provisions of KRS 138.660~~].

Section 5. KRS 177.973 is amended to read as follows:

(1) The transportation cabinet shall create a resource recovery road fund which is authorized to receive fees generated by [~~subsection (4) of~~] KRS 189.276, state appropriations, gifts, grants and federal funds.

(2) The resource recovery road fund shall be used solely for the purpose of reconstruction, repair and maintenance of resource recovery roads and bridges in natural resources producing counties or natural resources impact counties.

(3) [~~For fiscal year 1982-83~~] The funds generated from the fees provided by [~~subsection (4) of~~] KRS 189.276 be spent exclusively for the reconstruction, maintenance and repair of resource recovery bridges in natural resources producing and natural resources impact counties.

(4) [~~The secretary of transportation upon the request of any operator whose transportation plan has a one-way hauling distance of fifteen (15) miles or less, shall be assessed a resource recovery road hauling permit fee of two-tenths (2/10) of one (1) percent of the average value or gross value of the natural resource whichever is less.~~] Any operator whose transportation plan limits use of county resource recovery roads or state roads or highways to five hundred (500) yards or less shall be exempted from the provisions of KRS 177.972 to 177.975 *and 189.276.*

Section 6. KRS 177.974 is amended to read as follows:

(1) At least once in each calendar year the cabinet, through a duly authorized representative, shall consult with the state senator and state representative of each of the natural resources producing and natural resources impact counties for the purpose of review of the natural resources road system directory required by KRS 177.972 and planning of the expenditure of the county allotment of the resource recovery road fund on the state roads lying within the representative's and senator's legislative district.

(2) At least once in each calendar year the cabinet, through a duly authorized representative, shall consult with the fiscal courts of the various natural resources producing and natural resources impact counties for the purpose of review of the natural resources road system directory required by KRS 177.972 and planning of the expenditure of the county allotment of the resource recovery road fund on county roads lying within the county of the fiscal court jurisdiction.

(3) *All monies generated under KRS 189.276 shall be distributed* [~~The first one million six hundred thousand dollars ($1,600,000) generated by payment of resource recovery road hauling fees shall be deposited in the state transportation fund, after which the transportation cabinet shall retain seventy-five percent (75%) of all funds arising from the imposition of the fees generated by subsection (4) of KRS 189.276 and distribute said funds~~] in accordance with the provisions in KRS 177.975. [~~The remainder of said funds shall be transmitted to the finance and administration cabinet to be distributed to the appropriate counties in a like manner.~~]

(4) [~~The funds distributed to the counties under subsection (3) of this section shall be granted only on~~

~~the condition that each county match such funds with funds raised by the county.~~] The counties shall expend the distributed [~~and match~~] funds on the counties' resource recovery road system within twelve (12) months of the receipt of the distributed funds. Any distributed funds not expended within twelve (12) months of receipt by any county shall revert to the resource recovery road fund. The transportation cabinet is authorized to enforce this section by appropriate regulations promulgated pursuant to KRS Chapter 13 and audits.

Section 7. KRS 177.975 is amended to read as follows:

(1) The transportation cabinet shall allocate funds set apart for reconstruction, maintenance and repair of resource recovery roads and bridges by the provision of [~~subsection (4) of~~] KRS 189.276 as follows:

(a) One-fifth (1/5) shall be apportioned equally among the natural resources producing and natural resources impact counties;

(b) One-fifth (1/5) shall be apportioned on the basis of the mileage of road in a natural resources producing county bears to the total mileage of road in all natural resources producing counties;

(c) One-fifth (1/5) shall be apportioned on the basis of natural resources produced in a county based on the ratio to the total natural resources produced in the Commonwealth; and

(d) Two-fifths (2/5) shall be apportioned on the basis of the ratio of total natural resource road system mileage in a county, as designated by the natural resource road system directory required by KRS 177.972, to total statewide natural resource road system mileage.

(2) Of the total amount apportioned by the provision of this section, a sum not exceeding four percent (4%) may be deducted by the cabinet to defray the cost of implementation of the resource recovery road program.

Section 8. The following KRS sections are repealed:

174.105 Motor carrier regulatory board -- Membership -- Hearings on violations.
189.277 Forms for use of permit -- Review by department of revenue.

The Committee Substitute to **HB 178,** is as follows:

HB 178, AN ACT relating to transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) Any person transporting coal, who has obtained a motor vehicle registration issued pursuant to the provisions of this Act, may operate on any road or bridge covered by a cooperative agreement, as provided in Section 6 of this Act, and on those roads whose weights are prescribed in KRS 189.221 which are utilized as part of the transportation route of the person, up to the limits of the vehicle registration license.

(2) The secretary of transportation may restrict or regulate traffic on the coal transportation system in such a manner as is reasonably necessary to promote the safety and convenience of the travelling public.

SECTION 2. KRS 177.972 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) [~~On or before August 15, 1982, and each year thereafter,~~] The transportation cabinet shall publish a directory, including supporting maps and other documents, designating the official *coal* [~~natural resources~~] road system in *coal* [~~natural resources~~] impact and *coal* [~~natural resources~~] producing counties which shall include all public highways, roads, *bridges* and streets over which quantities of *coal* [~~natural resources,~~] sufficient to significantly affect the condition and state of repair of such highways, roads, *bridges* and streets[~~,~~] have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official *coal* [~~natural resources~~] road system and the total ton-miles within each *coal* [~~natural resources~~] impact and *coal* [~~natural resources~~] producing county for said preceding fiscal year.

(2) Every *producer or processor* [~~person~~] shipping or transporting *coal* [~~natural resources, and every carrier hired or common carrier hauling natural resources~~] over the public highways, roads, *bridges* and streets, shall file with the transportation cabinet such information and at such intervals as the cabinet shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the *coal* [~~natural resources~~] road system and the quantities of *coal* [~~natural resources~~] transported thereon, in order that the cabinet can accurately calculate total ton-miles within each *coal* [~~natural resource~~] impact and *coal* [~~natural resource~~] producing county. *A copy of the information furnished to the natural resources and environmental protection cabinet pursuant to the permitting requirements of KRS Chapter 350 regarding public road transportation plan may be submitted to the transportation cabinet to satisfy the reporting requirements of this subsection and such transportation plan shall be annually updated to reflect in route changes.* [~~Unless an employe-employer relationship otherwise exists, the securing of a natural resource recovery road permit under KRS 189.276 shall not be construed as establishing such a relationship between the~~

~~individual or entity securing the permit and the individual or entity hauling under the permit.~~]

(3) The department of revenue shall make available to the transportation cabinet coal severance and processing tax [~~and natural resource and processing tax data~~] for use in verifying and supplementing the information furnished under the provisions of subsection (2) *of this section* [~~above~~]. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; in the event the data cannot be furnished without revealing the identity of an individual taxpayer, it shall be withheld.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

All revenues generated pursuant to Section 6 of this Act shall be credited to a special account within the road fund called the "coal recovery road fund" and any additional funds obtained through state appropriation, gifts, grants and federal funds may be credited to the special account, and shall be used, in addition to those road funds normally used for said highways, exclusively by the transportation cabinet for those costs attendant to highway purposes for roads covered by any cooperative agreements under Section 1 of this Act. All funds in the account shall be carried forward at the end of each year.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Motor vehicles exceeding the gross axle weight limits prescribed by KRS 189.222 having a declared gross weight in excess of eighty-thousand (80,000) pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined or processed to a railhead, tipple, processing plant, storage yard or consumer in accordance with the cooperative agreement covering the authorization to operate such vehicle in excess of KRS 189.222 and on those roads whose weights are prescribed in KRS 189.221 which are utilized as a part of the transportation route of said motor carrier, shall, in addition to the payment of the registration fee for an eighty thousand (80,000) pound truck as specified in KRS 186.050(3), also pay an additional fee of fifty dollars ($50) for each type of motor carrier as set forth below:

(a) Motor carrier with steering and one (1) tandem axle shall be limited to a gross weight of ninety thousand (90,000) pounds with a tolerance of five percent (5%);

(b) Motor carriers with steering and three (3) axles shall be limited to a gross weight of one hundred thousand (100,000) pounds with a tolerance of five percent (5%);

(c) Motor carriers with steering and four (4) or more axles shall be limited to a gross weight of one hundred twenty thousand (120,000) pounds with a tolerance of five percent (5%).

(d) Any motor carrier issued a registration pursuant to this section shall be authorized to exceed the gross weight limits, gross axle weight limits, or the tire weight limits prescribed by the commissioner of highways pursuant to KRS 189.222 on those state maintained highways for which a cooperative agreement has been executed pursuant to Section 6 of this Act and on those roads whose weights are prescribed in KRS 189.221 which are utilized as part of the transportation route of said motor carriers.

(2) Any motor carrier involved in the transportation of coal which meets gross axle weights of twenty thousand (20,000) pounds per axle and twelve thousand (12,000) pounds for the steering axle may register in excess of eighty thousand (80,000) pounds by payment of the registration fee prescribed by KRS 186.050(3), plus an additional fee of fifteen dollars ($15) per thousand (1,000) pounds of registered weight.

(3) Nothing in this Act shall be construed to jeopardize the receipts of federal funds for highway purposes and the commissioner shall not act in any manner which would jeopardize federal highway funds to be received by the Commonwealth.

Section 5. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than twelve dollars ($12.00) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of one hundred dollars ($100) which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the cabinet.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled

registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

(9) Any person who violates any provision of Section 1 or 4 of this Act shall be fined not less than five hundred dollars ($500) and not more than two thousand five hundred dollars ($2,500) for each offense.

(10) Any person engaged in transporting coal and any operator or processor which permits coal to be transported in violation of Section 7 of this Act shall be fined not less than two hundred fifty dollars ($250) and not more than five hundred dollars ($500).

SECTION 6. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The transportation cabinet is authorized to enter into cooperative agreements with any person engaged in the mining, processing, transporting or sale of coal providing for the transportation of coal in vehicles exceeding the maximum weight limits on the state maintained system. Such cooperative agreements shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction or reconstruction of those roads and bridges, except those roads and bridges which are part of the federal interstate highway system, resulting from the transportation of coal by trucks transporting coal in excess of the maximum weight limits on the state maintained system and covered by the cooperative agreement. Nothing contained herein shall effect the continuing validity of any existing agreement.

(2) Any area of dispute arising under a cooperative road agreement, excluding the weight bearing capacity of a bridge, which cannot be resolved between the parties shall be submitted to an arbitration panel, which shall consist of one (1) arbitrator appointed by the commissioner of the department of highways, one (1) arbitrator appointed by the aggrieved party or parties, with the third arbitrator being appointed by the commissioner of the department of vehicle regulation, from a list of persons agreed to jointly by the commissioner of the department of highways and the parties to the cooperative agreement. In the event the two (2) parties to the dispute cannot agree upon a joint list, the third arbitrator shall be chosen by the commissioner of the department of vehicle regulation. The administrative costs incurred in the arbitration procedures as provided herein shall be paid out of those revenues collected pursuant to Section 3 of this Act.

(3) In any dispute arising under a cooperative road agreement concerning the weight bearing capacity of a bridge, the aggrieved party or parties shall submit to the state highway engineer a certified opinion rendered by a qualified registered engineer duly licensed in the Commonwealth, setting forth his independent analysis of the weight bearing capacity of the bridge. Relying in fact upon said certified independent analysis, the state highway engineer may adjust the determination of weight bearing capacity of a bridge.

(4) Notwithstanding KRS Chapter 143 the total tax contributions from any person entering into a cooperative agreement, as specified in this section of this Act, shall not exceed, in the aggregate, the sum of five thousand dollars ($5,000) per mile per year on those roads covered by the cooperative agreement, but such contribution shall not exceed ten cents (10) per ton of coal hauled on cooperative roads per year from an individual coal operator unless otherwise agreed. The transportation cabinet may allow any person, under the cooperative agreement, to provide for the design, approved maintenance, construction or reconstruction provided for in subsection (1) of this section in accordance with guidelines or standards prescribed by the cabinet.

SECTION 7. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) The transportation cabinet shall create a coal recovery road fund within the road fund. The coal recovery road fund shall receive from any operator or processor who is not covered by a cooperative agreement and exceeds the gross weight, gross axle weight or tire weights as provided in Section 6 of this Act, ten cents (10) per ton tax for coal hauled over state maintained system in addition to any taxes paid by a coal operator or processor under KRS Chapter 143. The coal road hauling tax shall be paid at the same time and in the same manner as the tax levied under KRS 143.020 and credited to the transportation cabinet.

(2) Any operator or processor whose public road transportation plan provides sufficient evidence to the secretary of transportation that the one way hauling distance of coal is limited to twenty-five (25) miles over the state maintained system shall be assessed a tax of five cents (5) per ton instead of the tax due under the provisions of subsection (1) of this section.

(3) The coal recovery road fund may receive any additional funds obtained through state appropriations, gifts, grants and federal funds.

(4) A tandem or triaxle shall be limited to transporting coal to a radius of fifty (50) air miles from the point at which the coal is mined.

(5) Any motor carrier transporting coal over roads in coal producing and coal impact counties under this section shall be subject to the registration fees and weight limitations as provided in Section 4(1) of this Act.

(b) Total tax contributions from any persons under this section shall not exceed five thousand ($5,000) per mile per year provided that such person shall have applied for a cooperative agreement.

SECTION 8. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed as prohibiting a county fiscal court from entering into a cooperative agreement.

SECTION 9. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

All motor carriers registered pursuant to Section 4 of this Act shall be exempt from the provisions of KRS 138.660(3).

Section 10. The following KRS sections are repealed:

KRS 174.105. Motor carrier regulatory board -- Membership -- Hearings on violations.

KRS 177.971. Definitions.

KRS 177.973. Resource recovery road fund -- Use of fund -- Exemptions.

KRS 177.974. Expenditure after consultation with local legislators and fiscal court members -- Division of funds -- Matching funds.

KRS 177.975. Allocation of funds for reconstruction, maintenance and repair of resource recovery roads and bridges.

KRS 189.276. Issuance of resource recovery road hauling permit -- Terms and conditions -- Fee.

KRS 189.277. Forms for use of permit -- Review by department of revenue.

The Committee on Cities reported **HB 240** with Committee Substitute attached thereto, **HB 608, HR 53** with Committee Amendment attached thereto, and **SB 120** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 240, AN ACT relating to pensions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county.

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years with interest at the rate actuarially assumed by the board: however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 15, 1984, local government retirement systems created pursuant to KRS 95.520, 95.621, 95.767, 95.852, 79.080, 96.180, 90.400 and 90.410 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.520, 95.621, 95.767, or 95.852 shall be certified by their employers as working in hazardous positions, and employes who would have been granted membership in retirement systems created pursuant to KRS 79.080, 96.180, 90.400 or 90.410 may be certified as working in hazardous positions. Each county, as defined in KRS 78.510, participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation.

Section 2. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.300 through 90.420, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.784, *95.851 through 95.884* and 96.180 notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the county employes retirement system pursuant to KRS 78.510 through 78.852.

(2) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employe contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, *95.851 through 95.884* or 96.180 shall be paid to the county employes retirement system and credited to the individual member's account in the system for any employe electing to terminate coverage under the provisions of this section. Proper credit for these employe contributions shall be given to the city or urban county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employe contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, or 96.180 by each employe electing to terminate coverage under the provisions of this section shall be refunded to the employe with interest as specified in the applicable statute, unless the employe has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

Section 3. KRS 95.520 is amended to read as follows:

(1) There shall be in cities of the third class a policemen's and fire fighter's pension fund, and a board of trustees for that fund unless the policemen and fire fighters are included in the membership of the county employes' retirement system.

(2) The board of trustees is the trustee of the pension fund, and has exclusive control and management of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) (a) After July 15, 1984, no new pension fund shall be created pursuant to this section. Cities which become cities of the third class after July 15, 1984 shall give their police and firefighters membership in the county employes retirement system.

(b) Cities which were covered by this section on or prior to July 15, 1984 shall provide for the retirement of police or firefighters rehired after July 15, 1984 either by placing such employes in the county employes retirement system, or by permitting them to repurchase retirement credit pursuant to KRS 95.620. The choice shall be at the option of the city.

(c) Cities which were covered by this section on or prior to July 15, 1984 shall place police or firefighters newly hired after July 15, 1984 in the county employes retirement system. Such cities may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

(d) The city shall certify that all police and firefighters placed in the county employes retirement system are employed in hazardous positions.

Section 4. KRS 95.621 is amended to read as follows:

(1) A city of the third class may adopt an ordinance creating a pension fund for fire fighters and policemen pursuant to KRS 95.621 to 95.629 as an alternative to the fund established in KRS 95.520 to 95.620. In the event a third-class city does elect to adopt KRS 95.621 to 95.629 all the provisions herein are mandatory. The provisions of KRS 95.620 shall apply to any city of the third class which has adopted KRS 95.621 to 95.629.

(2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.

(3) (a) After July 15, 1984, no new pension fund shall be created pursuant to this section. Cities which become cities of the third class after July 15, 1984 shall give their police and firefighters membership in the county employes retirement system.

(b) Cities which were covered by this section on or prior to July 15, 1984 shall provide for the retirement of police or firefighters rehired after July 15, 1984 either by placing such employes in the county employes retirement system, or by permitting them to repurchase retirement credit pursuant to KRS 95.620. The choice shall be at the option of the city.

(c) Cities which were covered by this section on or prior to July 15, 1984 shall place police or firefighters newly hired after July 15, 1984 in the county employes retirement system. Such cities may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

(d) The city shall certify that all police and firefighters placed in the county employes retirement system are employed in hazardous positions.

Section 5. KRS 95.761 is amended to read as follows:

(1) Any city of the fourth or fifth class which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments.

(2) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and fire fighter's pension fund, the same as a city of the third class.

(3) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 90.300 to 90.420 governing civil service, the same as a city of the third class, and may provide a retirement system for any of its employes, including police and fire fighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and fire fighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(4) A city of the fourth or fifth class may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employes, or KRS 95.767 to 95.784 for its police and fire fighters.

(5) The legislative body of the city of the fourth or fifth class may not establish or continue a retirement system for any of its employes unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section. If a city has adopted a retirement system but has not done so pursuant to statutes listed in subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems. After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employe covered thereby.

(6) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of fire fighters and assistant chief of fire fighters .

(b) Any classified employe in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of fire fighters, or assistant chief of fire fighters , shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(7) After July 15, 1984, no city shall create a new pension fund pursuant to this section, other than by adopting KRS 78.510 to 78.852.

Section 6. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of (a) the proceeds of an annual tax, which may be levied by the city legislative body, in accordance with the limitations and procedures of KRS 132.027, on each hundred dollars ($100) in value of taxable property; (b) all rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department; (c) assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 1/2%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund. Beginning July 15, 1982 and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed

fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

(3) (a) After July 15, 1984, no new pension fund shall be created pursuant to this section. Cities which become cities of the fourth class after July 15, 1984 shall give their police and firefighters membership in the county employes retirement system.

(b) Cities which were covered by this section on or prior to July 15, 1984 shall provide for the retirement of police or firefighters rehired after July 15, 1984 either by placing such employes in the county employes retirement system, or by permitting them to repurchase retirement credit pursuant to KRS 95.620. The choice shall be at the option of the city.

(c) Cities which were covered by this section on or prior to July 15, 1984 shall place police or firefighters newly hired after July 15, 1984 in the county employes retirement system. Such cities may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

(d) The city shall certify that all police and firefighters placed in the county employes retirement system are employed in hazardous positions.

Section 7. KRS 95.852 is amended to read as follows:

(1) There is hereby established in cities of the second class, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries. The fund shall be established as of July 1, 1956, and shall be known as the "policemen's and fire fighter's retirement fund of the city of....." In such name all of its business shall be transacted, and in such name or nominee name as provided by KRS 287.225 all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

(2) (a) After July 15, 1984, no new pension fund shall be created pursuant to this section. Cities which become cities of the second class after July 15, 1984 shall give their police and firefighters membership in the county employes retirement system.

(b) Cities which were covered by this section on or prior to July 15, 1984 shall provide for the retirement of police or firefighters rehired after July 15, 1984 either by placing such employes in the county employes retirement system, or by permitting them to repurchase retirement credit pursuant to KRS 95.620. The choice shall be at the option of the city.

(c) Cities which were covered by this section on or prior to July 15, 1984 shall place police or firefighters newly hired after July 15, 1984 in the county employes retirement system. Such cities may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

(d) The city shall certify that all police and firefighters placed in the county employes retirement system are employed in hazardous positions.

Section 8. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service by the levy of a tax, in accordance with the limitations and procedures of KRS 132.027, on each one hundred dollars ($100) value of taxable property in the city, the proceeds of that tax to be paid to the pension fund in cash, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every three (3) years after an actuarial survey of the fund, and shall be in effect for a period of at least three (3) years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other

benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

(8) After July 15, 1984, no new pension fund shall be created pursuant to this section. Any city which provided a pension plan for its employes on or prior to July 15, 1984 shall place employes hired after July 15, 1984 in the county employes retirement system. The board may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

Section 9. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a pension fund for the benefit of employes under civil service by the levy of a tax, in accordance with the limitations and procedures of KRS 132.027, on each one hundred dollars ($100) value of taxable property in the city, and may assess monthly such amount or percent of the salary of employes as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employe.

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension, not to exceed one-half (1/2) of the monthly salary of any employe at the time of his retirement.

(3) When any city of the third class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

(4) After July 15, 1984, no new pension fund shall be created pursuant to this section. Any city which provided a pension plan for its employes on or prior to July 15, 1984 shall place employes hired after July 15, 1984 in the county employes retirement system. The board may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

Section 10. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United Stated department of health, education and welfare except as provided in subsection (3) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employes, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, urban-county government or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employes and by the city, county, urban-county government or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, urban-county government or agency. Each city, county, urban-county government or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) Any city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons and which provides hospitalization benefits or health maintenance

organization coverage to its employes, shall annually give its employes an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside; except that if any city, county, urban-county government or agencies of any city, county, urban-county government or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside, the city, county, urban-county government or agencies of the city, county, urban-county government or any other political subdivision of the state may annually give its employes an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons, for any other hospitalization benefit shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(6) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

(7) After July 15, 1984, no new retirement plan shall be created pursuant to this section. Any city, county, urban county or agency thereof which provided a retirement plan for its employes on or prior to July 15, 1984 shall place employes hired after July 15, 1984 in the county employes retirement system. The city, county, urban county or agency thereof may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

Section 11. KRS 96.180 is amended to read as follows:

(1) The board may, by proper order, provide a pension plan for its employes. In the event the board elects to provide a pension plan, it shall determine and formulate the form of pension plan to be used; determine and prescribe the eligibility of employes or their dependents to a pension or other benefits; determine and prescribe the monthly allowance or pension for employes or their dependents so determined to be eligible for a pension or benefits under the pension plan, not to exceed, however, a sum equal to one-half (1/2) of the monthly salary or wages of any employe at the time of his or her retirement; appoint a commission, which shall consist of three (3) members possessing the qualifications of a member of the board, for the administration of the pension plan and prescribe the powers and duties of such commission; appoint a trustee of the pension fund, fix the term of his office and the compensation of such trustee, and prescribe the powers and duties of such trustee and do and perform any other or further acts necessary to effectuate such pension plan. When a pension plan shall have been adopted, a commission appointed to administer such plan and a trustee of the pension fund appointed and qualified, the board may annually appropriate and pay out of its operating revenue, as a operating expense, into the sinking fund, a sum sufficient, when determined on a fair actuarial basis, to maintain the pension plan so adopted, not exceeding, however, a sum equal to one-half of one per cent (.5%) of the fair value of the utility property and assets. The board may assess, and cause to be paid into the pension fund monthly, such amount or per cent of the salary of all employes eligible under and electing to accept the pension plan as may be equitably determined on a fair actuarial basis, not to exceed, however, five per cent (5%) of the monthly salary of any employe. The trustee of the pension fund shall give such bond as required by the board, the cost of which shall be payable out of the pension fund. The trustee of the pension fund shall each year file with the board a report showing his actions and his accounts as such trustee.

(2) The board shall have full power to receive any and all funds of property which may be available or become available to the board or the city for use in the creation or maintenance of a pension plan for the employes of the board, including but not limiting the power to sign, execute and deliver such receipts, indemnity agreement or other writing which either the board or the city may be required to sign, execute and

deliver to obtain any such fund or property for such purpose.

(3) (a) After July 15, 1984, no new pension fund shall be created pursuant to this section.

(b) Any board which provided a pension plan for its employes on or prior to July 15, 1984 shall place employes hired after July 15, 1984 in the county employes retirement system. The board may offer employes hired on or prior to July 15, 1984 membership in the county employes retirement system, but such employes may elect to retain coverage under this section.

Section 12. KRS 65.155 is amended to read as follows:

(1) Each local government or local government agency which has a pension plan which is qualified under Section 401(a) of the Internal Revenue Code shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions made to the respective retirement system pursuant to KRS [~~70.582,~~] 79.080, 96.180, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, or 95.867 for all compensation earned after August 1, 1982, or after qualification pursuant to Section 401(a) of the Internal Revenue Code, whichever is later, and all contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each local government or local government agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, or later date, as the case may be, by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The local governments or local government agencies shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the local government or local government agency to the fund. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS [~~70.582,~~] 79.080, 96.180, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769 or 95.867 in the same manner and to the same extent as employe contributions made prior to August 1, 1982, or later date of pick up, as the case may be.

(2) The pick up of employe contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employe retirement benefit may be based in any of the retirement systems covered by this section.

Section 13. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, [~~70.580 to 70.598,~~] 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or 96.180 shall submit the retirement system to an actuarial evaluation at least once every three (3) years. The evaluation shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the legislative research commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

Section 14. KRS 70.542 is amended to read as follows:

(1) Except in counties containing a city of the first class, or counties containing an urban-county government, the fiscal court of any county in which there is an established county police force pursuant to KRS 70.540, may provide for the establishment or abolishment of an auxiliary county police force to perform duties within the county upon such terms and conditions as the fiscal court deems necessary and proper. The fiscal court shall prescribe the number of members comprising such auxiliary county police force, and prescribe rules and regulations that shall govern the powers and duties of the members of such auxiliary county police force, unless otherwise provided in subsection (2) of this section.

(2) A member of an auxiliary county police force shall:

(a) Be appointed by the county judge/executive and serve at his pleasure;

(b) [~~Not be construed to be within the definition and application of the terms “employe” or “patrolman” as provided in KRS 70.580;~~

~~(c)~~] Be answerable and under the direction of the county judge/executive, except when the county judge/executive delegates such authority to the chief officer of the county police force;

(c)[~~(d)~~] Not receive any compensation or benefits for his time or service, except that the fiscal court may provide for the payment of any reasonable and necessary expenses incurred by a member of the auxiliary county police force in the conduct of his official duties; and

(d)[~~(e)~~] Be appointed regardless of race, color, creed or position.

(3) Before any person is appointed as a member of an auxiliary county police force, he shall give bond to the county judge/executive in an amount as prescribed by the fiscal court. The fiscal court may authorize the premium therefor to be paid out of the general funds of the county.

Section 15. KRS 95.890 is amended to read as follows:

For the purposes of KRS 95.895 to 95.945, the following terms shall have the following meanings:

(1) "Beneficiary" shall mean a member, either active or retired, of a local government pension system which participates in the local government pension investment fund;

(2) "Board" shall mean the governing body of the local government pension investment fund, as provided for in KRS 95.905;

(3) "Fund" shall mean the local government pension investment fund, as created by KRS 95.895 to 95.945;

(4) "Qualified investment manager" shall mean a bank or trust company as defined and regulated in KRS Chapter 287, or an investment adviser as defined in KRS 292.310 and registered under KRS 292.330, or an investment adviser registered under the federal investment advisers act of 1940, or an insurance company certified pursuant to KRS 304.3-160;

(5) "Participant" shall mean a locally administered public pension system, created pursuant to KRS 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.851 to 95.885, 90.400, 90.410, 96.180, *or* 79.080, [~~or 70.580 to 70.598,~~] which chooses to invest in and thereby become a member of the local government pension investment fund.

Section 16. The following KRS sections are repealed:

70.580 Definitions for KRS 70.580 to 70.598.
70.582 Creation of pension system -- Appropriation, contributions.
70.584 Pension fund -- Purpose -- Expenditures.
70.586 Board to manage fund -- Selection of members -- Term -- Compensation.
70.588 System funded by investment trust -- Disbursement of funds.
70.590 Board to promulgate rules and regulations -- Pass on applications -- Report to fiscal court.
70.592 Investments.
70.594 Refund.
70.596 County attorney to advise board -- Board may employ attorney.
70.598 Pension in addition to social security benefits.

The Committee Substitute to **HB 240** is as follows:

HB 240, AN ACT relating to pensions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.852 is amended to read as follows:

(1) There is hereby established in cities of the second class, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries. The fund shall be established as of July 1, 1956, and shall be known as the "policemen's and fire fighter's retirement fund of the city of ....." In such name all of its business shall be transacted, and in such name or nominee name as provided by KRS 287.225 all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

(2) As an alternate to coverage under subsection (1) of this section, a city of the second class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes' retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes' retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year. If a majority of the active police and fire fighters considered as one (1) group, vote to enter the county employes' retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and

shall certify the results to the board. At the time a city enters the county employes' retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes' retirement system pursuant to KRS 78.531. If the city's participation in the county employes' retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.851 to 95.884 and KRS 95.991 to any of its police and fire fighters who have not retained membership in the county employes' retirement system pursuant to KRS 78.535(4).

Section 2. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.300 through 90.420, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.784, *95.851 through 95.884* and 96.180 notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the county employes retirement system pursuant to KRS 78.510 through 78.852.

(2) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employe contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, *95.851 through 95.884* or 96.180 shall be paid to the county employes retirement system and credited to the individual member's account in the system for any employe electing to terminate coverage under the provisions of this section. Proper credit for these employe contributions shall be given to the city or urban county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employe contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.520 through 95.620, 95.621 through 95.629, 95.767 through 95.785, *95.851 through 95.884* or 96.180 by each employe electing to terminate coverage under the provisions of this section shall be refunded to the employe with interest as specified in the applicable statute, unless the employe has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

Section 3. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county.

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years with interest at the rate actuarially assumed by the board: however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period.

(c) A city entering the system under the alternate participation plan, it may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, 1985, local government retirement systems created pursuant to KRS 95.767, 79.080, 96.180, 90.400 and 90.410 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.767, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in KRS 78.530(3), and shall pay for the actuarial services necessary to determine the additional costs of alternate participation.

Section 4. KRS 95.520 is amended to read as follows:

(1) There shall be in cities of the third class a policemen's and fire fighter's pension fund, and a board of trustees for that fund unless the policemen and fire fighters are included in the membership of the county employes' retirement system.

(2) The board of trustees is the trustee of the pension fund, and has exclusive control and management of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) As an alternate to coverage under subsection (1) of this section, a city of the third class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes' retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes' retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year. If a majority of the active police and fire fighters considered as one (1) group vote to enter the county employes' retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes' retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes' retirement system pursuant to KRS 78.531. If the city's participation in the county employes' retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.520 to 95.620 to any of its police and fire fighters who have not retained membership in the county employes' retirement system pursuant to KRS 78.535(4).

Section 5. KRS 95.621 is amended to read as follows:

(1) A city of the third class may adopt an ordinance creating a pension fund for fire fighters and policemen pursuant to KRS 95.621 to 95.629 as an alternative to the fund established in KRS 95.520 to 95.620. In the event a third-class city does elect to adopt KRS 95.621 to 95.629 all the provisions herein are mandatory. The provisions of KRS 95.620 shall apply to any city of the third class which has adopted KRS 95.621 to 95.629.

(2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.

(3) As an alternate to coverage under subsection (1) of this section, a city of the third class shall provide retirement security for members of the police and fire departments through hazardous duty coverage in the county employes' retirement system, if a majority of the active police and fire fighters, considered as one (1) group, vote by secret ballot for county employes' retirement system coverage. A vote shall be scheduled by the mayor within ninety (90) days of receipt of a petition requesting such a vote and signed by thirty-three percent (33%) of the active police and fire fighters, considered as one (1) group, but such a vote shall be scheduled only in the first six (6) months of the fiscal year. If a majority of the active police and fire

fighters considered as one (1) group vote to enter the county employes' retirement system, the city shall enter the system on the first day of the next succeeding fiscal year, and shall enter under the alternate participation plan as described in KRS 78.530(3). The city shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Each policeman and fire fighter shall vote during a forty-eight (48) hour period at the office of the police chief or the fire chief as the case may be. At the close of voting, the police chief and the fire chief shall, in the presence of the police and fire fighter members of the board of trustees and such other police and fire fighters and board members who wish to attend, open the ballot boxes and count the votes. The count shall be certified by a notary public, and the certificate with the ballots shall be sent in a sealed envelope to the mayor. The mayor shall open the certificate and count all the returns, and shall certify the results to the board. At the time a city enters the county employes' retirement system, police and fire fighters who are members of a retirement and benefit fund created pursuant to subsection (1) of this section, may retain membership in such fund, or may choose membership in the county employes' retirement system pursuant to KRS 78.531. If the city's participation in the county employes' retirement system is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.621 to 95.629 to any of its police and fire fighters who have not retained membership in the county employes' retirement system pursuant to KRS 78.535(4).

Section 6. KRS 95.761 is amended to read as follows:

(1) Any city of the fourth or fifth class which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for employment within the police or fire departments.

(2) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 95.520 to 95.620 governing policemen's and fire fighter's pension fund, the same as a city of the third class.

(3) A city of the fourth or fifth class is authorized to adopt the provisions of KRS 90.300 to 90.420 governing civil service, the same as a city of the third class, and may provide a retirement system for any of its employes, including police and fire fighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and fire fighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(4) A city of the fourth or fifth class may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employes, or KRS 95.767 to 95.784 for its police and fire fighters.

(5) The legislative body of the city of the fourth or fifth class may not establish or continue a retirement system for any of its employes unless such action is taken pursuant to statutes listed in subsection (2), (3) or (4) of this section. If a city has adopted a retirement system but has not done so pursuant to statutes listed in subsection (2), (3), or (4) of this section, it shall amend its action to comply with the provisions of this subsection. This subsection shall not be construed to limit the application of KRS 82.082(2) with respect to the comprehensive nature of Kentucky law governing city retirement systems. After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employe covered thereby.

(6) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of fire fighters and assistant chief of fire fighters .

(b) Any classified employe in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of fire fighters, or assistant chief of fire fighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(7) After July 1, 1985, no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852.

Section 7. KRS 95.768 is amended to read as follows:

(1) The police and fire fighter's pension fund in cities of the fourth class shall consist of (a) the proceeds of an annual tax, which may be levied by the city legislative body, in accordance with the limitations and procedures of KRS 132.027, on each hundred dollars ($100) in value of taxable property; (b) all rewards, fees, gifts or emoluments paid or given on account of extraordinary service of any member of the police or fire department; (c) assessments, which the board of trustees of the pension fund shall make, upon each member of the police and fire departments, of not more than three and one-half per cent (3 1/2%) of his salary, to be held from the monthly salary and paid by the city treasurer into the pension fund. Beginning July 15, 1982 and thereafter, upon a member's withdrawal from service prior to qualifying for a pension, the

board of trustees shall be governed by the provisions of KRS 95.620(2), (3) and (4).

(2) Said fund shall be for the pensioning of any policeman or fire fighter who has served in the police or fire departments for at least a period of twenty (20) years or more, providing that applicant has reached his fifty-first birthday, and all members of the police and fire departments shall be entitled to be credited with the services rendered continuously prior to the adoption ordinance under the provisions of KRS 95.761, by said city, to the eligibility of the twenty (20) year or more, period for pension, not less than three (3), nor to exceed fifteen (15) years of previous service, and for the further purpose of pensioning any member of the police or fire department who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependent children under fourteen (14) years of age, or either of them, of any member of said departments who may lose his life while in the service and on active duty. The payments made under the provisions of this section shall constitute and be kept as a fund to be called the "Policemen's and Fire Fighter's Pension Fund," and the board of trustees of the policemen's pension fund, are declared to be the trustees of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to pursue all the necessary remedies in the premises.

(3) (a) After July 1, 1985, no new pension fund shall be created pursuant to this section. Cities which become cities of the fourth class after July 1, 1985 may give their police and fire fighters membership in the county employes retirement system.

(b) Cities which were covered by this section on or prior to July 1, 1985 shall provide for the retirement of police or fire fighters rehired after July 1, 1985 by placing such employes in the county employes retirement system.

(c) Cities which were covered by this section on or prior to July 1, 1985 shall place police or fire fighters newly hired after July 1, 1985 in the county employes retirement system. Such cities shall offer employes hired on or prior to July 1, 1985 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section.

(d) The city shall certify that all police and fire fighters placed in the county employes retirement system are employed in hazardous positions.

Section 8. KRS 90.400 is amended to read as follows:

(1) Any city of the second class adopting a civil service plan under KRS 90.310 shall provide by ordinance for the creation and maintenance of a pension fund for employes under civil service by the levy of a tax, in accordance with the limitations and procedures of KRS 132.027, on each one hundred dollars ($100) value of taxable property in the city, the proceeds of that tax to be paid to the pension fund in cash, and may assess monthly such amount or percent of the salary of the employes as may be equitably determined on a fair actuarial basis, the assessment to be deducted from the employes' salaries and paid in cash into the pension fund.

(2) The city may make current contributions to the fund on an actuarially funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) An annual amount resulting from the application of a rate percent of salaries of active members, representing the present value of the actuarial reserve requirements for membership service, for service retirement annuity, disability retirement annuity, and annuities to surviving spouses and children, and the one-year term premium for the city's liability for death benefits, after applying the contribution by the active members. Such rate percent shall be fixed by the board of city commissioners every three (3) years after an actuarial survey of the fund, and shall be in effect for a period of at least three (3) years.

(b) An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.

(3) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of the trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension.

(4) Temporary employes appointed without examination shall not be compelled to contribute to any pension fund and shall not be eligible to benefits.

(5) In no year shall the contribution by the city to the pension fund, in the manner provided in this section, be less than the total amount assessed upon and deducted from the salary of the employes.

(6) The trustees of the pension fund shall, at least once every three months, report in writing to the mayor the receipts, expenditures and financial status of the pension fund, stating the places of deposit of funds, or the character of investments made, and the mayor shall cause copies of the report to be posted in at least three (3) places where city employes frequent and report.

(7) When any city of the second class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such

employes unless by the mutual consent of the city and an employe or employes.

(8) After July 1, 1985, no new pension fund shall be created pursuant to this section. Any city which provided a pension plan for its employes on or prior to July 1, 1985 shall place employes hired after July 1, 1985 in the county employes retirement system. The board shall offer employes hired on or prior to July 1, 1985 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section.

Section 9. KRS 90.410 is amended to read as follows:

(1) Any city of the third class adopting a civil service plan under KRS 90.310 may provide by ordinance for the creation and maintenance of a pension fund for the benefit of employes under civil service by the levy of a tax, in accordance with the limitations and procedures of KRS 132.027, on each one hundred dollars ($100) value of taxable property in the city, and may assess monthly such amount or percent of the salary of employes as may be equitably determined on a fair actuarial basis, not to exceed five percent (5%) of the monthly salary of any employe.

(2) The city may create a board for the pension fund and designate trustees of that board, and may fix the powers of trustees, determine the eligibility of employes or their dependents to a pension or other benefit, and may provide a monthly allowance for employes eligible for a pension, not to exceed one-half (1/2) of the monthly salary of any employe at the time of his retirement.

(3) When any city of the third class adopts an ordinance under this section for the creation of a pension fund, picks up employe contributions pursuant to KRS 65.155, or accepts from its employes a portion of their wages and levies a tax therefor, an inviolable contract shall be created between the city as employer and its employes, and the city and its employes shall continue to operate under KRS 90.310 to 90.390 and the adopting ordinance. A repeal of that ordinance by the city shall in no wise affect such employes unless by the mutual consent of the city and an employe or employes.

(4) After July 1, 1985, no new pension fund shall be created pursuant to this section. Any city which provided a pension plan for its employes on or prior to July 1, 1985 shall place employes hired after July 1, 1985 in the county employes retirement system. The board shall offer employes hired on or prior to July 1, 1985 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section.

Section 10. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United Stated department of health, education and welfare except as provided in subsection (3) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employes, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, urban-county government or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employes and by the city, county, urban-county government or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, urban-county government or agency. Each city, county, urban-county government or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) Any city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons and which provides hospitalization benefits or health maintenance organization coverage to its employes, shall annually give its employes an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside; except that if any city, county, urban-county government or agencies of any city, county, urban-county government or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside, the city, county, urban-county government or agencies of the city, county, urban-county government or any other political subdivision of the state may annually give its employes an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, urban-county

government or other political subdivision of the state which employs more than twenty-five persons, for any other hospitalization benefit shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(6) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

(7) After July 1, 1985, no new retirement plan shall be created pursuant to this section. Any city, county, urban county or agency thereof which provided a retirement plan for its employes, pursuant to this section, on or prior to July 1, 1985 shall place employes hired after July 1, 1985 in the county employes retirement system. The city, county, urban county or agency thereof shall offer employes hired on or prior to July 1, 1985 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section.

Section 11. KRS 96.180 is amended to read as follows:

(1) The board may, by proper order, provide a pension plan for its employes. In the event the board elects to provide a pension plan, it shall determine and formulate the form of pension plan to be used; determine and prescribe the eligibility of employes or their dependents to a pension or other benefits; determine and prescribe the monthly allowance or pension for employes or their dependents so determined to be eligible for a pension or benefits under the pension plan, not to exceed, however, a sum equal to one-half (1/2) of the monthly salary or wages of any employe at the time of his or her retirement; appoint a commission, which shall consist of three (3) members possessing the qualifications of a member of the board, for the administration of the pension plan and prescribe the powers and duties of such commission; appoint a trustee of the pension fund, fix the term of his office and the compensation of such trustee, and prescribe the powers and duties of such trustee and do and perform any other or further acts necessary to effectuate such pension plan. When a pension plan shall have been adopted, a commission appointed to administer such plan and a trustee of the pension fund appointed and qualified, the board may annually appropriate and pay out of its operating revenue, as a operating expense, into the sinking fund, a sum sufficient, when determined on a fair actuarial basis, to maintain the pension plan so adopted, not exceeding, however, a sum equal to one-half of one per cent (.5%) of the fair value of the utility property and assets. The board may assess, and cause to be paid into the pension fund monthly, such amount or per cent of the salary of all employes eligible under and electing to accept the pension plan as may be equitably determined on a fair actuarial basis, not to exceed, however, five per cent (5%) of the monthly salary of any employe. The trustee of the pension fund shall give such bond as required by the board, the cost of which shall be payable out of the pension fund. The trustee of the pension fund shall each year file with the board a report showing his actions and his accounts as such trustee.

(2) The board shall have full power to receive any and all funds of property which may be available or become available to the board or the city for use in the creation or maintenance of a pension plan for the employes of the board, including but not limiting the power to sign, execute and deliver such receipts, indemnity agreement or other writing which either the board or the city may be required to sign, execute and deliver to obtain any such fund or property for such purpose.

(3) (a) After July 1, 1985, no new pension fund shall be created pursuant to this section.

(b) Any board which provided a pension plan for its employes on or prior to July 1, 1985 shall place employes hired after July 1, 1985 in the county employes retirement system. The board shall offer employes hired on or prior to July 1, 1985 membership in the county employes retirement system under the alternate participation plan as described in KRS 78.530(3), but such employes may elect to retain coverage under this section.

Section 12. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such

county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.510 to 78.852.

(3) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of Section 1, 3, 4 or 5 of this Act shall not be required to provide membership in the county employes retirement system to employes in any employe category not covered by a city pension system at the date of participation.

Section 13. KRS 65.155 is amended to read as follows:

(1) Each local government or local government agency which has a pension plan which is qualified under Section 401(a) of the Internal Revenue Code shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions made to the respective retirement system pursuant to KRS [~~70.582,~~] 79.080, 96.180, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769, or 95.867 for all compensation earned after August 1, 1982, or after qualification pursuant to Section 401(a) of the Internal Revenue Code, whichever is later, and all contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each local government or local government agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, or later date, as the case may be, by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The local governments or local government agencies shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the local government or local government agency to the fund. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS [~~70.582,~~] 79.080, 96.180, 90.400, 90.410, 95.290, 95.580, 95.627, 95.768, 95.769 or 95.867 in the same manner and to the same extent as employe contributions made prior to August 1, 1982, or later date of pick up, as the case may be.

(2) The pick up of employe contributions by the employer shall not be construed to reduce the final salary or the average salary upon which the employe retirement benefit may be based in any of the retirement systems covered by this section.

Section 14. KRS 65.156 is amended to read as follows:

(1) The governing board of any local government retirement system created pursuant to KRS 67A.320, 67A.340, 67A.360 to 67A.690, [~~70.580 to 70.598,~~] 79.080, 90.400, 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or 96.180 shall submit the retirement system to an actuarial evaluation at least once every three (3) years, if the system provides a defined benefit. The evaluation shall be prepared by an actuary who is a fellow of the society of actuaries, a member of the American academy of actuaries, or an enrolled actuary under the Employes' Retirement Income Security Act of 1975. The board shall send a copy of the most recent evaluation to the librarian of the legislative research commission by September 1, 1982, and thereafter the board shall send a copy of each new evaluation within ten (10) days of receipt.

(2) Actuaries performing evaluations pursuant to this section shall use the entry age normal cost funding method. Their reports shall include a definition of each actuarial term and an explanation of each actuarial assumption used. Assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(3) Any city with a retirement system created pursuant to KRS 79.080, 90.400, 90.410, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.851 to 95.884 or 96.180 which is closed to new members pursuant to Section 1, 3, 4 or 5 of this Act shall contribute annually to the pension system, for the benefit of the retirees of the system and the active participants who choose to remain in the system, and in cities of the second class for the benefit of members who have completed at least twenty (20) years' service and withdrawn from service pursuant to KRS 95.857, an amount equal to that which would be required pursuant to the funding standards of KRS 95.868, plus so much of the principal amount of any unfunded prior service liability as the actuary states is necessary to maintain cash flow adequate to pay retiree and beneficiary payments until financial obligations to all retirees and beneficiaries are fully satisfied.

Section 15. KRS 70.542 is amended to read as follows:

(1) Except in counties containing a city of the first class, or counties containing an urban-county government, the fiscal court of any county in which there is an established county police force pursuant to KRS 70.540, may provide for the establishment or abolishment of an auxiliary county police force to perform duties within the county upon such terms and conditions as the fiscal court deems necessary and proper. The fiscal court shall prescribe the number of members comprising such auxiliary county police force, and prescribe rules and regulations that shall govern the powers and duties of the members of such auxiliary

county police force, unless otherwise provided in subsection (2) of this section.

(2) A member of an auxiliary county police force shall:

(a) Be appointed by the county judge/executive and serve at his pleasure;

(b) [~~Not be construed to be within the definition and application of the terms "employe" or "patrolman" as provided in KRS 70.580;~~

~~(c)~~] Be answerable and under the direction of the county judge/executive, except when the county judge/executive delegates such authority to the chief officer of the county police force;

(c)[~~(d)~~] Not receive any compensation or benefits for his time or service, except that the fiscal court may provide for the payment of any reasonable and necessary expenses incurred by a member of the auxiliary county police force in the conduct of his official duties; and

(d)[~~(e)~~] Be appointed regardless of race, color, creed or position.

(3) Before any person is appointed as a member of an auxiliary county police force, he shall give bond to the county judge/executive in an amount as prescribed by the fiscal court. The fiscal court may authorize the premium therefor to be paid out of the general funds of the county.

Section 16. KRS 95.890 is amended to read as follows:

For the purposes of KRS 95.895 to 95.945, the following terms shall have the following meanings:

(1) "Beneficiary" shall mean a member, either active or retired, of a local government pension system which participates in the local government pension investment fund;

(2) "Board" shall mean the governing body of the local government pension investment fund, as provided for in KRS 95.905;

(3) "Fund" shall mean the local government pension investment fund, as created by KRS 95.895 to 95.945;

(4) "Qualified investment manager" shall mean a bank or trust company as defined and regulated in KRS Chapter 287, or an investment adviser as defined in KRS 292.310 and registered under KRS 292.330, or an investment adviser registered under the federal investment advisers act of 1940, or an insurance company certified pursuant to KRS 304.3-160;

(5) "Participant" shall mean a locally administered public pension system, created pursuant to KRS 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.851 to 95.885, 90.400, 90.410, 96.180, *or* 79.080, [~~or 70.580 to 70.598,~~] which chooses to invest in and thereby become a member of the local government pension investment fund.

Section 17. The following KRS sections are repealed:

70.580	Definitions for KRS 70.580 to 70.598.
70.582	Creation of pension system -- Appropriation, contributions.
70.584	Pension fund -- Purpose -- Expenditures.
70.586	Board to manage fund -- Selection of members -- Term -- Compensation.
70.588	System funded by investment trust -- Disbursement of funds.
70.590	Board to promulgate rules and regulations -- Pass on applications -- Report to fiscal court.
70.592	Investments.
70.594	Refund.
70.596	County attorney to advise board -- Board may employ attorney.
70.598	Pension in addition to social security benefits.

HB 608, AN ACT relating to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.010 is amended to read as follows:

The boundaries of cities of the first class shall remain as established by law until changed as provided in KRS 81A.010 to *81A.020, 81A.440 or through merger with a contiguous city pursuant to KRS 81.410 - 81.440* [~~81A.040~~]. Whenever a city of the first class desires to annex any unincorporated territory or to reduce the boundaries of the city, the city legislative body may enact an ordinance, defining accurately the boundary of the territory proposed to be annexed or stricken off. The ordinance shall be published pursuant to KRS chapter 424. In not less than thirty (30) days after the enactment of the ordinance, if the publication has been made and no petition has been filed in the circuit court as provided in KRS 81A.020, the city legislative body may enact another ordinance annexing to the city or striking from the city the territory described in the ordinance. Upon the enactment of this ordinance, the territory shall become part of the city, or be stricken from the city.

Section 2. KRS 81A.050 is amended to read as follows:

Any city of the first class which proposes to annex territory pursuant to KRS 81A.010 [~~or 81A.030~~] shall, prior to the enactment of the first ordinance, hold public hearings as provided in KRS 81A.060 and prepare a report setting forth the plans for the extension of services to the area proposed to be annexed. The report shall include:

(1) A map of the city and adjacent territory to show the following information:

(a) The present and proposed boundaries of the city;

(b) The present streets, major trunk water mains, sewer interceptors and outfalls as well as other utility lines;

(c) The present areas receiving, or able to receive, major city services, and the proposed extension of such services to other areas; and

(d) The prevailing general land use patterns existing in the area to be annexed.

(2) A statement showing that the area to be annexed meets the requirements of KRS 81A.010 [~~or 81A.030~~].

(3) A statement setting forth the plans of the city for extending to the area to be annexed each major city service owned by the city or subsidized through city tax revenues and performed within the city at the time of annexation. Such statement shall:

(a) Provide for extending police and fire protection, garbage collection, and street maintenance services to the area to be annexed on the date of annexation, on substantially the same basis and in the same manner as such services are provided within the boundaries of the city prior to annexation;

(b) Provide for extension, into the area to be annexed, of streets and of major trunk water mains, sewer outfall lines, and lines for such utility services as the city provides to existing city residents and legally may provide in the annexed area, so that when such streets and utility lines are constructed, property owners in the area to be annexed will be able to secure the services, according to the policies in effect in the city for extending the services to individual lots or subdivisions; and shall name the government proposed to be responsible under the plans for any streets or form a boundary of the area to be annexed;

(c) Set forth a proposed timetable for the extension of, and if necessary, the construction for each major city service;

(d) Set forth a projected estimation of tax rates pursuant to KRS 81A.070 to be levied by the city upon the area to be annexed and affected residents of that area for each year until such time that all major city services have been provided; and

(e) Set forth the method under which the city plans to finance extension of services into the area to be annexed.

Section 3. KRS 81A.400 is amended to read as follows:

The boundaries of any city other than a city of the first class shall remain as established by law until changed as provided in KRS 81A.410 to 81A.470. The legislative body of any city other than a city of the first class may annex any [~~city or portion of any city of the second through sixth class, or~~] unincorporated territory *pursuant to KRS 81A.420,* or reduce the boundaries of the city under the provisions of KRS [~~81A.430 and~~] 81A.440, *or a city may merge with a contiguous city pursuant to KRS 81.410 to 81.440.*

Section 4. KRS 81A.410 is amended to read as follows:

(1) A city legislative body may extend the city's boundaries to include any area:

(a) Which is adjacent or contiguous to the city's boundaries at the time the annexation proceeding is begun; and

(b) Which by reason of population density, commercial, industrial, institutional or governmental use of land, or subdivision of land, is urban in character or suitable for development for urban purposes without unreasonable delay.

(2) No part of the area to be annexed shall be included within the boundary of another incorporated city[~~, except as provided in KRS 81A.430~~].

(3) If a city is considering the annexation of two (2) or more areas which are all adjacent to the city boundary but are not adjacent to one another, it may undertake simultaneous proceedings under the authority of KRS 81A.420 [~~or 81A.430~~] for the annexation of such areas.

Section 5. KRS 81A.460 is amended to read as follows:

If a proposal by a city to annex [~~all or part of another city or~~] unincorporated territory, or to reduce its boundaries is rejected by the voters of the [~~city or~~] territory proposed to be annexed or stricken, no further steps to annex or strike the same [~~city or~~] territory shall be taken within five (5) years from the date of rejection, nor shall the question of annexation or striking off be again submitted within that period.

Section 6. KRS 81A.440 is amended to read as follows:

(1) A city may reduce its boundaries by *the enacting by its legislative body of an ordinance stating the intention of the city to reduce its boundaries. Such ordinance shall accurately define the boundaries of the area to be stricken from the corporate limits of the city, and shall provide that the question of reduction of boundaries shall be submitted to the registered voters of the area to be stricken from the city at the next regular election. A copy of the ordinance shall be sent to the county clerk who shall have prepared, for presentation to the voters located within the area to be stricken, the question: "Are you in favor of being stricken from the city of ________________, and becoming part of the unincorporated area of the county?"*

(2) If a majority of those voting on the question vote "Yes" to the question of being stricken, the legislative body of the city within ten (10) days of the certification of the election, shall enact an ordinance declaring the area to be stricken from the corporate limits of the city as of the date of the ordinance [~~following the procedure outlined in KRS 81A.430 for annexing territory~~].

Section 7. KRS 81A.450 is amended to read as follows:

[~~(1) Whenever a city annexes another city, the annexing city shall be bound for all the debts and liabilities, and shall be the owner of all corporate property, franchises and rights, of the annexed city. If only a part of another city is annexed, the annexing city shall be liable for that proportion of the debts of the other city which the value of the real estate in the part of the city annexed bears to the value of all the real estate in the city, according to the latest assessment by the property valuation administrator.~~

~~(2)~~] Whenever any unincorporated territory [~~or part of a city~~] is annexed by a city, the annexing city shall be liable for any indebtedness that is attached to or exists against the territory [~~or part of a city~~] by reason of the same being then or previously a part of any taxing district, and the annexing city shall assume the liability, so that after annexation the burden of taxation shall be uniform throughout the city.

Section 8. The following KRS sections are repealed:
81A.030 Annexation of another city by a first-class city.
81A.040 First-class city takes over rights and liabilities of city annexed.
81A.430 Annexation of all or part of city.

HR 53, A RESOLUTION commemorating the 75th anniversary of the N.A.A.C.P. and supporting "Black History Month."

WHEREAS, the National Association for the Advancement of Colored People (N.A.A.C.P.) was founded in 1909 to work for the abolition of segregation and discrimination in housing, education, employment, voting and transportation; and

WHEREAS, THE N.A.A.C.P. was also created to oppose racism and to ensure blacks their constitutional rights; and

WHEREAS, the N.A.A.C.P. has been in the forefront in causing America to live up to its creed of equality and justice for all, thereby creating a better society in which to live; and

WHEREAS, THE N.A.A.C.P., which has been most successful in the area of legal redress, is celebrating its 75th anniversary; and

WHEREAS, Black Americans have made many outstanding contributions to the development of our great nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House proudly commemorates the 75th anniversary of the N.A.A.C.P.

Section 2. That this honorable body supports the designation of the month of February as "Black History Month."

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to the national headquarters of the N.A.A.C.P. in New York City.

The Committee Title Amendment No. 1 to **HR 53** is as follows:

Amend printed copy of **HR 53,** by adding the word "CONCURRENT" following "A" in the Title.

SB 120, AN ACT relating to local government in counties containing a city of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:
67C.010 Study of local government -- Report -- Proposals for change in functions -- Consolidation plan.
67C.020 Initiation of process for development of new form of local government -- Drafting commission -- Comprehensive plan -- Approval or disapproval.

Calendar

HB 93, HB 568, SB 64, HB 182, HB 89, HB 363, HB 157, HB 361, HB 426, HB 170, HB 281, HB 461, and **HB 610** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 29, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Floor Amendment No. 2 to **HB 29.** Agreed.

Representative Little moved the adoption of the Committee Amendment No. 1 to **HB 29.** Rejected.

Representative Little moved that **HB 29,** as amended, be passed.

On the roll call the vote was yeas 49-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Ford, Fryman, Gedling, Gray, Handy, Johnson, Kenton, Kidd, Lefevers, Lile, Little, Maggard, Meyer, Moberly, Morris, Noe, Noland, Perkins, Rapier, Rattliff, Riner, Seum, Stone, Stumbo, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 45-Allen, Burnette, Caldwell, Clapp, Clarke, Craddock, Ellington, Farrow, Foster, Freibert, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, T. Jones, Layman, LeMaster, List, Long, Lundergan, Mann, McBee, McElroy, McNutt, Moore, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Thomas, Thomason, Turner.

HB 29, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 29,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 89** has been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:38 p.m.)

Orders of the Day (Continued)

HB 319, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of the Committee Amendment No. 1 to **HB 319.** Agreed.

Representative Blevins moved that **HB 319,** as amended, be passed.

On the roll call the vote was yeas 29-Blandford, Blevins, Burch, Burnette, L. Clark, P. Clark, Cline, Cyrus, Dawahare, Donnermeyer, Gedling, Gray, Handy, Hines, T. Jones, Kenton, Kidd, Little, Maggard, Pearman, Perkins, Priddy, B. Richardson, Thomas, Van Horn, White, Williams, Worthington, Yates. Nays 65-Allen, Arnold, Barrows, Brinkley, Bronger, Bruce, Caldwell, Clapp, Clarke, Craddock, Crupper, Curd, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, Layman, LeMaster, Lile, List, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Petty, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner.

HB 319, as amended, was defeated.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 44, HB 45, HB 57, HB 214, HB 215,** and **HB 420** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:50 p.m.)

HB 44, HB 45, HB 57, HB 214, HB 215, and **HB 420** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HR 24 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of **HR 24**..

HR 24 was adopted by voice vote.

Representative LeMaster moved that the vote by which **HR 24** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 30 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HCR 30** be passed.

On the roll call the vote was yeas 95-Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HCR 30 was passed and the title agreed to.

HR 48 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that **HR 48** be adopted.

HR 48 was adopted by voice vote.

SJR 1 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved that **SJR 1** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SJR 1 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SJR 1** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 519, with Committee Amendment attached thereto, taken from Order of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Amendment No. 1 to **HB 519**. Agreed.

Representative Little moved that **HB 519**, as amended, be passed.

On the roll call the vote was yeas 48-Arnold, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Clapp, L. Clark, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Fryman, Gedling, Gray, Hancock, Handy, Johnson, Kenton, Lefevers, Lile, Little, Maggard, Mann, Meyer, Morris, Noe, O'Brien, Perkins, Priddy, Rapier, Rattliff, Reinhardt, Richards, Seum, F. Smith, Stone, Stumbo, Thomas, Van Horn, Williams, Worthington, Yates. Nays 45-Allen, Barrows, Bendl, Burnette, Caldwell, P. Clark, Clarke, Craddock, Crupper, Ellington, Farrow, Ford, Foster, Freibert, Guenthner, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, T. Jones, Kidd, Layman, List, Long, Lundergan, McBee, McElroy, McNutt, Moore, Nett, Noland, Overstreet, Patrick, Pearman, Petty, B. Richardson, Riner, Robinson, B. Smith, Thomason, Todd, Turner, White.

HB 519, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 519**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 123 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that **HB 123** be passed.

On the roll call the vote was yeas 84-Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 6-Clarke, Endicott, Holloway, Morris, Pearman, Robinson.

HB 123 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 123** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved the adoption of the Committee Substitute to **HB 334**. Agreed.

Representative Brinkley moved that **HB 334**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 94-Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 334, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 334,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 494, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of the Committee Amendment No. 1 to **HB 494**. Agreed.

Representative O'Brien moved that **HB 494,** as amended, be passed.

On the roll call the vote was yeas 92-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 494, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 494,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 505 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rattliff moved that **HB 505** be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 505 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 505** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 555 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members

elected.

Representative Cline moved that **HB 555** be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 3-L. Clark, Heleringer, White.

HB 555 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 555** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 561 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved that **HB 561** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 561 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 561** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 451 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that **HB 451** be passed.

On the roll call the vote was yeas 82-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Craddock, Crupper, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Yates. Nays 9-Allen, Barrows, Caldwell, Clarke, Curd, Ellington, List, McNutt, Worthington.

HB 451 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 451** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 467, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Layman moved the adoption of the Committee Amendment No. 1 to **HB 467**. Agreed.

Representative Layman moved that **HB 467**, as amended, be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 467, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 467**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative LeMaster moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (Continued)

HB 581 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 581** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Clapp.

HB 581 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 581** was passed be reconsidered and saic motion be placed on the table. Agreed.

HB 463, with Committee Amendment attached thereto, taken from Orders of the Day and orderec read at length for the third time. Representative LeMaster moved that it be read by title only and placed upo its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Amendment No. 1 to **HB 463**. Agreed.

Representative Mann moved that **HB 463**, as amended, be passed.

On the roll call the vote was yeas 57-Allen, Barrows, Blandford, Blevins, Burch, Burnette, Clapp, L

Clark, P. Clark, Crupper, Curd, Cyrus, Dawahare, Dunn, Ellington, Endicott, Ford, Foster, Fryman, Gedling, Gray, Handy, Head, Heleringer, R. Jones, T. Jones, Kidd, Long, Maggard, Mann, McBee, McElroy, Meyer, Moore, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, White, Williams, Yates. Nays 27-Arnold, Brinkley, Caldwell, Clarke, Cline, Craddock, Donnermeyer, Freibert, Hancock, Hines, Holbrook, Holloway, Johnson, Kidd, LeMaster, Lile, List, Lundergan, McNutt, Moberly, Nett, Noe,Petty, Richards, B. Smith, Thomason, Van Horn.

HB 463, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 463,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 224, which Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Committee Substitute to **HB 224.** Agreed.

Representative T. Jones moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 224.** Rejected.

Representative Williams moved that **HB 224,** by way of Committee Substitute, be passed.

Representative T. Jones moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 224.**

On the roll call the vote was yeas 27-Allen, Arnold, Brinkley, Burnette, Clapp, Cline, Craddock, Curd, Deskins, Farrow, Ford, Foster, Fryman, Hancock, Head, R. Jones, T. Jones, Little, Long, Maggard, McBee, McElroy, Moberly, Overstreet, Pearman, Thomason, Todd. Nays 54-Bendl, Blandford, Blevins, Bronger, Burch, Caldwell, L. Clark, P. Clark, Clarke, Crupper, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Friebert, Guenthner, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Mann, McNutt, Meyer, Morris, Nett, Noe, O'Brien, Patrick, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, Riner, Robinson, Seum, Stone, Stumbo, Thomas, Turner, Van Horn, Williams, Yates.

Floor Amendment No. 3 to the Committee Substitute to **HB 224** was rejected.

Representative Barrows moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 224.**

On the roll call the vote was yeas 46-Allen, Barrows, Brinkley, Brown, Burnette, Clapp, Clarke, Cline, Craddock, Curd, Cyrus, Dawahare, Farrow, Ford, Freibert, Fryman, Gedling, Gray, Hancock, Head, T. Jones, Kenton, LeMaster, Lile, List, Little, Long, Maggard, McBee, McElroy, McNutt, Moberly, Overstreet, Pearman, Perkins, Rattliff, Reinhardt, Richards, B. Richardson, Robinson, Seum, B. Smith, Stone, Stumbo, Thomason, Todd, White. Nays 39-Bendl, Bronger, Bruce, Burch, Caldwell, L. Clark, P. Clark, Crupper, Donnermeyer, Dunn, Ellington, Endicott, Guenthner, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, Kidd, Lefevers, Mann, Meyer, Morris, Nett, Noe, O'Brien, Patrick, Petty, Priddy, Rapier, Riner, F. Smith, Thomas, Turner, Van Horn, Williams, Yates.

Floor Amendment No. 4 to the Committee Substitute to **HB 224** was adopted.

Representative Williams moved that **HB 224,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 57-Bendl, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Crupper, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, , Freibert, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd,LeMaster, Lile, List, Long, Lundergan, Mann, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Patrick, Perkins, Petty, Priddy, Rapier, Reinhardt, Riner, Seum, F. Smith, Stone, Stumbo, Thomas, Van Horn, Williams, Yates. Nays 35-Allen, Arnold, Brown, Burnette, Clapp, Cline, Craddock, Curd, Dawahare, Ellington, Farrow, Ford, Foster, Fryman, Gray, Head, T. Jones, Lefevers, Little, Maggard, McBee, McElroy, McNutt, Noland, Overstreet, Pearman, Richards, B. Richardson, Robinson, B. Smith, Thomason, Todd, Turner, White, Worthington.

HB 224, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 224,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 73, with Senate Amendment attached thereto, taken from Orders of the day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 73** is as follows:

Amend printed copy of **HB 73** on page 2, line 18, by placing a bracket after the word "employed"; and

on page 2, line 24, by placing a bracket after the word "fixtures".

Representative Rapier moved that the House concur in Senate Amendment No. 1 to **HB 73.** Agreed.

Representative Rapier moved that **HB 73,** as amended by the Senate, be passed.

On the roll call the vote was yea 50-Barrows, Bendl, Blandford, Blevins, Bronger, Burch, Caldwell, L. Clark, P. Clark, Clarke, Donnermeyer, Dunn, Freibert, Guenthner Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, McElroy, Meyer, Moberly, Nett, Noland, O'Brien, Petty, Rapier, Reinhardt, P. Richardson, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Van Horn, Williams, Yates. Nays 34-Brinkley, Brown, Clapp, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Layman, Lefevers, Little, Maggard, McNutt, Moore, Morris, Noe, Overstreet, Patrick, Pearman, Robinson, Stone, Todd, Turner, White, Worthington.

HB 73, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 73,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 7, with Senate Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 7** is as follows:

Amend printed copy of **HB 7** on page 3, after line 9, by adding the following words:

"Section 2. KRS 147A.002 is amended to read as follows:

(1) The department for local government shall be headed by a commissioner, and shall be divided for administrative purposes into such divisions as the commissioner, with the approval of the governor, determines.

(2) The commissioner, with the approval of the governor, shall appoint necessary deputies, assistants, attorneys and other employes and shall fix their compensation and authorize payment of their expenses according to law.

[~~(3) The commissioner shall be the state local finance officer and he may delegate the duties to his agent designated in writing with the approval of the governor.~~]"

Representative Farrow moved that the House concur in the Senate Amendment No. 1 to **HB 7.** Agreed.

The Senate Amendment No. 2 to **HB 7** is as follows:

Amend printed copy of **HB 7** on page 1, line 10, after the word "*officer,*" by inserting the following language: "*, except as provided in KRS 147A.025(1),*".

Representative Farrow moved that the House concur in the Senate Amendment No. 2 to **HB 7.**

Agreed.

Representative Farrow moved that **HB 7**, as amended by the Senate, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-McNutt.

HB 7, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 7**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 1** is as follows:

Amend printed copy of **HB 1** on page 3, by adding after line 17 the following language: "Section 9. This Act shall become effective January 1, 1985."

Representative Long moved that the House concur in Senate Amendment No. 1 to **HB 1**. Agreed.

Representative Long moved that **HB 1**, as amended by the Senate, be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-McNutt, Dawahare.

HB 1, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 1**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 19, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 19** is as follows:

Amend printed copy of **HB 19** on page 1, line 18, after "*cipal*" and before the comma insert the following: "*or his designee, and the principal shall request a conference with the parent, guardian or other custodian.*";

and on page 1, line 18, delete the word "*written*" and insert "*Written*" in lieu thereof;

and on page 1, lines 18 and 19, delete "*has been*" and insert "*must be*" in lieu thereof;

and on page 2, line 1, after "*school*" insert "*or his designee,*".

Representative Mann moved that the House concur in Senate Amendment No. 1 to **HB 19**. Agreed.

Representative Mann moved that **HB 19**, as amended by the Senate, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 6-Brown, Endicott, Fryman, Head, Little, Pearman.

HB 19, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 19,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350, with Senate Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative O'Brien moved that the House concur in the Senate Amendment No. 1 to **HB 350.**

Representative Petty moved that **HB 350,** with Senate Amendments attached thereto, be laid on the Clerk's desk. Rejected.

Representative O'Brien moved that the House concur in Senate Amendment No. 1 to **HB 350.**

Representative O'Brien moved that the vote by which the motion to lay **HB 350,** with Senate Amendments attached thereto, on the Clerk's desk was rejected be reconsidered.

On the roll call the vote was yeas 48-Allen, Bendl, Bronger, Caldwell, L. Clark, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Handy, Harper, Heleringer, Hines, Johnson, T. Jones, Kidd, Layman, Lefevers, Lile, Long, Mann, McElroy, McNutt, Nett, Noland, Overstreet, Patrick, Pearman, Petty, Rapier, Reinhardt, Richards. B. Richardson, P. Richardson, Stone, Thomas, Thomason, Turner, Van Horn, Williams, Yates. Nays 32-Arnold, Blandford, Blevins, Bruce, Burch, Clapp, P. Clark, Dawahare, Deskins, Fryman, Gray, Holloway, Kenton, Little, Lundergan, Maggard, McBee, Moberly, Morris, Noe, O'Brien, Priddy, Rattliff, Riner, Robinson, Seum, B. Smith, F. Smith, Stumbo, Todd, White, Worthington.

The motion that the vote by which the motion to lay **HB 350,** with Senate Amendments attached thereto, on the Clerk's desk was rejected be reconsidered was adopted.

Representative Williams moved that **HB 350,** with Senate Amendments attached thereto, be laid on the Clerk's desk. Agreed.

HB 208, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to hB 208 is as follows:

Amend printed copy of **HB 208** on page 1, line 4, after "*city,*" by inserting "*urban county government,*";

on page 1, line 20, after the subsection number four (4) and before the word "*The*" by inserting the language "*Effective January 1, 1985;*";

on page 1, line 21, after "*city*" by inserting "*or urban county government*";

on page 2, after line 5 and before line 6, by adding the following language:

"*(6) County clerks shall be responsible for causing the preparation and mailing of a notice of ad-*

valorem taxes due on each motor vehicle no later than one month prior to the due date. These notices shall be prepared and mailed by the revenue cabinet for county clerks, and actual costs of preparation and mailing shall be paid by the county clerks to the revenue cabinet."

on page 2, line 8, after "*city,*" by inserting "*urban county government,*";

on page 2, line 13, after "*city,*" by inserting "*urban county government,*";

on page 3, line 1, after "*city,*" by inserting "*urban county government,*";

on page 3, line 13, after "*city,*" by inserting "*urban county government,*";

on page 4, line 1, after "*city,*" by inserting "*urban county government,*";

on page 4, line 22, after "*city,*" by inserting "*urban county government,*";

on page 5, line 13, after "*city,*" by inserting "*urban county government,*";

on page 5, line 20, after "*city,*" by inserting "*urban county government,*";

on page 6, line 18, after "*city,*" by inserting "*urban county government,*";

on page 7, line 4, after "*city,*" by inserting "*urban county government,*";

on page 8, line 26, after "*city,*" by inserting "*urban county government,*";

on page 21, lines 4 and 5 by deleting them in their entirety and inserting in lieu thereof: "Section 18. Sections 1 and 3 through 17 of this Act shall become effective January 1, 1985."

Representative LeMaster moved that the House concur in Senate Amendment No. 1 to **HB 208.** Agreed.

Representative LeMaster moved that **HB 208,** as amended by the Senate, be passed.

On the roll call the vote was yeas 71-Arnold, Barrows, Bendl,Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Clapp, L. Clark, P. Clark, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ford, Foster, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 15-Brown, Bruce, Clarke, Cline, Ellington, Endicott, Farrow, Freibert, Fryman, Hancock, List, McNutt, Noland, Priddy, Robinson.

HB 208, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 208,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

A meeting of the Committee on Rules was announced on adjournment, State Reception Room.

A meeting of the Committee chairmen has been cancelled for today.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 715, by Representatives T. Jones and Harper: AN ACT relating to conflicts of interest of public officers and employes.

HB 716, by Representatives T. Jones and Harper: AN ACt relating to public business entities.

HB 717, by Representatives B. Smith, P. Richardson, Head, and P. Clark: AN ACT relating to rescue squads.

HB 718, by Representatives B. Smith, P. Richardson, Head, and P. Clark: AN ACT relating to hazardous duty retirement.

HB 719, by Representative B. Smith, P. Richardson, Head, and P. Clark: AN ACT relating to public employes.

HB 720, by Representatives Freibert, Turner, Harper, Caldwell, Lile, Overstreet, Fryman, Lefevers, Allen, Endicott, Moore, Patrick, Holloway, and Todd: AN ACT relating to individual income tax.

HB 721, by Representative O'Brien: AN ACT relating to insurance.

HB 722, by Representatives Bendl, Perkins, Moberly, and Kenton: AN ACT relating to descent and distribution.

HB 723, by Representatives Bendl, Perkins, Moberly, and Kenton: AN ACT relating to husband and wife.

HB 724, by Representatives Bendl, Perkins, Moberly, and Kenton: AN ACT relating to dissolution of marriage.

HB 725, by Representatives Bendl, Perkins, Moberly, and Kenton: AN ACT relating to dissolution of marriage.

HB 726, by Representative LeMaster: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

HB 727, by Representative Robinson and Clapp: AN ACT relating to alcoholic beverages.

HB 728, by Representative LeMaster: AN ACT relating to the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated by alcohol and declaring an emergency.

HB 729, by Representative Mann: AN ACT relating to the production of oil and gas.

HB 730, by Representative Brinkley, Stone, Blandford,Arnold, B. Richardson, Cyrus, Morris, Endicott, McElroy, and McNutt: AN ACT relating to state investments.

HB 731, by Representatives Morris, Endicott, Bruce, and Cline: AN ACT relating to sales and use tax.

HB 732, by Representative Johnson: AN ACT relating to workers' compensation.

HB 733, by Representative Moore: AN ACT relating to county law libraries.

HJR 71, by Representative Clapp: A JOINT RESOLUTION directing the Council on Higher Education to formulate a plan for combining the state's professional school programs.

HJR 72, by Representatives Mann, thomas, Noe, McBee, Donnermeyer, and Priddy: A JOINT RESOLUTION requesting that the secretary of the cabinet for human resources include non-steriod and other anti-arthritic drugs on the Kentucky medical assistance program outpatient drug list.

HCR 73, by Representatives Bendl, Kenton, Hines, Stumbo, Moberly, and T. Jones: A CONCURRENT RESOLUTION reaffirming the integrity of United States Supreme Court decisions protecting certain constitutional rights.

HJR 74, by Representatives Brown and Cline: A JOINT RESOLUTION directing the University of Kentucky College of Agriculture to conduct a study of the effects of imported tobacco on Kentucky's burley market.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 660, HJR 5, HB 153.**

Agriculture and Small Business: **HR 61.**

Judiciary-Civil: **HB 644, HB 635, HB 590, HB 582, HB 571, HB 547, HB 210, HB 513, HB 686.**

Banking and Insurance: **HB 700.**

Judiciary-Criminal: **SB 54.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Banking and Insurance: **HB 373.**

Judiciary-Criminal: **HB 550, HB 676.**

Motions, Petitions, and Communications (Continued)

Representative Harper moved that the rules be suspended to take **HB 350**, with Senate Amendments attached thereto, from the Clerk's desk and place it in Orders of the Day. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HJR 75, by Representatives Thomason, Richards, Allen, Arnold, Bendl, Blandford, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Curd, Cyrus, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Head, Heleringer, Holloway, Johnson, R. Jones, T. Jones, Lyman, Lefevers, Lile, Long, Lundergan, Maggard, McElroy, McNutt, Meyer, Moberly, Morris, Patrick, Pearman, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, B. Smith, Stone, Thomas, Todd, Turner, Van Horn, White, and Yates: A JOINT RESOLUTION directing the council on higher education to submit recommendations on professional medical education programs.

HJR 76, by Representatives Thomason, Richards, Allen, Arnold, Bendl, Blandford, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Curd, Cyrus, Deskins, Dunn, Ellington, Farrow, Ford, Foster, Fryman, Gray, Head, Heleringer, Holloway, Johnson, R. Jones, T. Jones, Layman, Lefevers, Lile, Long, Lundergan, Maggard, McElroy, McNutt, Moberly, Morris, Patrick, Pearman, Priddy, Rapier, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Thomas, Todd, Turner, Van Horn, White, and Yates: A JOINT RESOLUTION directing the council on higher education to submit recommendations on professional law education programs.

HJR 77, by Representatives Thomason, Richards, Allen, Arnold, Bendl, Blandford, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Curd, Cyrus, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gray, Head, Heleringer, Holloway, Johnson, R. Jones, Layman, Lefevers, Lile, Long, Lundergan, Maggard, McElroy, McNutt, Meyer, Moberly, Morris, Patrick, Pearman, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, B. Smith, Stone, Thomas, Todd, Turner, Van Horn, White and Yates: A JOINT RESOLUTION directing the council on higher education to submit recommendations on professional education programs.

Report of Committees

The Committee on Judiciary-Civil reported **HB 449, HB 484, HB 511, HB 580, HB 583** with Committee Amendment attached thereto, **HB 629** and **HB 453** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 449, AN ACT relating to the Court of Justice and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the circuit court:

(1) Second Judicial Circuit.
(2) Third Judicial Circuit.
(3) Sixth Judicial Circuit.
(4) Eighth Judicial Circuit.
(5) Ninth Judicial Circuit.
(6) Seventeenth Judicial Circuit.
(7) Twenty-fourth Judicial Circuit.
(8) Twenty-fifth Judicial Circuit.
(9) Twenty-seventh Judicial Circuit.
(10) Thirty-second Judicial Circuit.
(11) Thirty-fifth Judicial Circuit.
(12) *Forty-first Judicial Circuit.*
(13) Forty-eighth Judicial Circuit.

Section 2. The term of the judgeship of circuit court created by this Act shall be concurrent with the existing term of office of judges of the circuit court. Until the next regular election of judges of the circuit court, the judgeship created by this Act shall be filled as provided by Sections 118 and 152 of the Constitution. At the next regular election of judges of the circuit court, this office shall be filled for an entire term.

Section 3. For the purpose of funding this amendment to KRS 23A.040, there is appropriated out of the general expenditure fund in the state treasury to the court of justice for court operations and administration the following sums:

1984-85	1985-86
$107,300	$104,600

And to the board of trustees for the judicial form retirement system the following sums:

1984-85	1985-86
$7,500	$7,500

HB 484, AN ACT relating to court districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21A.010 is amended to read as follows:

The Commonwealth is divided into seven (7) Supreme Court districts composed as follows:

(1) First District: Allen, Ballard, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Muhlenberg, Simpson, Todd, Trigg and Webster Counties.

(2) Second District: Barren, Breckinridge, Bullitt, Daviess, Edmonson, Grayson, Hancock, Hardin, Hart, Henderson, Meade, Ohio, Union and Warren Counties.

(3) Third District: Adair, [~~Anderson,~~] Bell, Casey, Clay, Clinton, Cumberland, *Estill, Garrard,* Green, Jackson, Knox, Larue, Laurel, *Lee,* Leslie, Lincoln, Marion, McCreary, Metcalfe, Monroe, Nelson, Owsley, Pulaski, Rockcastle, Russell, [~~Spencer,~~] Taylor, [~~Washington,~~] Wayne and Whitley Counties.

(4) Fourth District: Jefferson County.

(5) Fifth District: *Anderson,* Bourbon, Boyle, Clark, [~~Estill,~~] Fayette, Franklin, [~~Garrard,~~] Jessamine, [~~Lee,~~] Madison, Mercer, [~~Powell,~~] Scott, *Spencer, Washington* and Woodford Counties.

(6) Sixth District: Bath, Boone, Bracken, Campbell, Carroll, Fleming, Gallatin, Grant, Harrison, Henry, Kenton, Lewis, Mason, Nicholas, Oldham, Owen, Pendleton, Robertson, Shelby and Trimble Counties.

(7) Seventh District: Boyd, Breathitt, Carter, Elliott, Floyd, Greenup, Harlan, Johnson, Knott, Lawrence, Letcher, Magoffin, Martin, Menifee, Montgomery, Morgan, Perry, Pike, *Powell,* Rowan and Wolfe Counties.

HB 511, AN ACT relating to the court of justice and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26A.090 is amended to read as follows:

As used in KRS 26A.090 to 26A.115 unless the context otherwise requires:

(1) "Operating costs allowance" means compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance and necessary maintenance, repair and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition, and, at the election of the administrative office of the courts, capital costs of interior or mechanical renovations for the benefit of the court.

(2) "Use allowance" means compensation equal to four percent (4%) annually of the total original capital costs and the cost of capitalized renovation of the court facility, except that if indebtedness has been incurred in respect to such capital costs at a constant annual interest rate equal to or greater than seven percent (7%), compensation shall be at a rate of eight percent (8%) annually of that portion of the capital costs for which the rate applies. *No county, however, shall receive less than the equivalent of one dollar ($1.00) per net square foot as capital reimbursements for the use of local court facilities by the court of justice.*

(3) "Capital costs" means the costs borne by the unit of government, excluding grants, conditioned by the grantor agency specifically for court facility construction or renovation, for acquisition of property and for construction and capitalized renovation including interest accruing during construction or renovation, but no other interest of each court facility. If capital costs are not documented, reasonable estimates provided by qualified appraisers will suffice.

(4) "Capitalized renovation" means all remodeling involving the structural or mechanical systems, except for remodeling that involves substantial demolition of the original structure. Remodeling involving substantial demolition of the original structure shall constitute construction resulting in a new court facility.

(5) "Unit of government" means a county, city, urban-county government, special district or corporate entity created for the purpose of constructing or holding title to a court facility.

(6) "Court facility" means the land and buildings owned or operated by a unit of government in which space for the court of justice is provided. Judges' benches, jury and witness boxes, and fixed seating shall be considered as permanent building fixtures.

(7) "Court facilities standards committee" means a committee consisting of the chief justice or his designee, one (1) judge each of the court of appeals, the circuit court and the district court appointed by the supreme court, the president of the circuit clerks' association, the chairman of the judiciary-civil committees of the general assembly, the secretary of the finance and administration cabinet, and a county judge/executive appointed by the governor. Each appointed member shall serve for a term of four (4) years from the date of his appointment or until he vacates the office in respect to which he was appointed, whichever is earlier.

Section 2. KRS 29A.060 is amended to read as follows:

(1) Each circuit or district judge shall inform the chief circuit judge or his designee of his needs for qualified jurors.

(2) To select a grand jury or a petit jury in circuit court, the clerk shall:

(a) *Assign thirty-two (32) jurors selected in rotation or at random to the court* [~~Draw thirty-two (32) names at random from the jury wheel~~];

(b) List the names, in the order drawn, from one (1) to thirty-two (32);

(c) Place thirty-two (32) numbered balls *or cards* in a box and shake the box;

(d) Draw the required number of balls *or cards,* dependent on the number of jurors required plus alternates, from the box and record the number of each ball *or card* as it is drawn.

(3) To select a petit jury for a trial in district court, the clerk shall:

(a) *Assign sixteen (16) jurors selected in rotation or at random to the court* [~~Draw sixteen (16) names at random from the jury wheel~~];

(b) List the names, in the order drawn, from one (1) to sixteen (16);

(c) Place sixteen (16) numbered balls *or cards* in a box and shake the box;

(d) Draw the required number of balls *or cards*, dependent on the number of jurors required plus alternates, from the box and record the number of each ball *or card* as it is drawn.

(4) The names corresponding to the numbers on the balls *or cards* which have been drawn shall constitute the petit jury. When alternate jurors are permitted the last *number or numbers* [~~ball or balls~~] drawn, as the case may be, will represent the alternate jurors.

(5) As jurors are excused and new jurors are required additional balls *or cards* shall be drawn from the box, one (1) for each juror required, until all of the balls *or cards* in the box have been exhausted.

(6) In the event that all of the balls *or cards* in the box have been exhausted the box shall be refilled utilizing the process required by subsections (1) to (4) of this section.

(7) The chief circuit judge shall regulate the random assignment of jurors for use in circuit and district courts *and may assign identifying numbers to be used instead of names in notifying jurors whether to report each day. The chief circuit judge may cause daily service to be rotated equitably among jurors during the period of jury service.* Any petit juror assigned to a judge of circuit or district court may be used by any other judge of any other branch or division of circuit or district court when jurors are needed.

(8) *Before the commencement of a jury period of service, each circuit and district judge shall inform the chief circuit judge or his designee of his needs for qualified jurors for the next jury period.* [~~If a grand, petit, or other jury is ordered to be drawn,~~] The chief circuit judge or his designee thereafter shall cause each person drawn *from the jury wheel* for jury service to be served with a summons requiring him to report for jury service at a specified time and place, unless otherwise notified by the court, and to be available for jury service for thirty (30) judicial days thereafter. The service of summons may be either made personally by the sheriff or sent by first class mail, addressed to him at his usual residence, business, or post office address. In either case, notice shall be mailed or served to the juror at least thirty (30) days before he is required to attend.

(9) The juror qualification form required by KRS 29A.070 shall be enclosed with the summons. If the summons is served by mail, any prospective juror who does not return the juror qualification form within ten (10) days shall be personally served by the sheriff.

(10) When there is an unanticipated shortage of available jurors drawn from a jury wheel, the court may cause additional names to be drawn. The persons so chosen shall be summoned as provided in this section, but need not be given the notice provided in subsection (8) of this section.

(11) Only persons duly qualified and summoned under subsection (8) of this section and KRS 29A.070 shall serve as jurors.

(12) If, after making a fair effort in good faith, the judge is satisfied that it will be impracticable to obtain a jury free of bias in the county in which the prosecution is pending, he may obtain a sufficient number of jurors from some adjoining county in which the judge believes there is the greatest probability of obtaining impartial jurors. *If the judge is satisfied that impartial jurors cannot be found in an adjacent county, he may order jurors to be selected from the next most convenient county.* The judge shall request the chief circuit judge for the [~~adjoining~~] county *so chosen* to draw and summon as many jurors as are needed. Jurors summoned under this subsection need not be given the notice provided in subsection (8) of this section.

(13) The names of jurors drawn from the jury wheel shall be made available to the public.

Section 3. KRS 34.320 is amended to read as follows:

Members of the judicial retirement and removal commission who do not otherwise receive a salary from the state treasury shall receive *one hundred* [~~sixty~~] dollars *($100)* [~~($60.00)~~] for each day they are in session or on official duty. All members shall be reimbursed for their necessary expenses for each day they are in session or on official duty. All claims shall be approved by the chief justice or his designee and shall be paid out of the state treasury.

Section 4. KRS 64.485 is amended to read as follows:

(1) The salary for each justice of the Supreme Court, payable out of the state treasury, shall be forty-nine thousand dollars ($49,000) per annum, except for the salary of the chief justice of the Supreme Court which shall be fifty thousand dollars ($50,000) per annum.

(2) The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be forty-seven thousand dollars ($47,000), with the exception of the chief judge of the Court of Appeals who shall receive a salary of forty-seven thousand five hundred dollars ($47,500).

(3) The salary of each circuit judge, payable out of the state treasury, shall be forty-five thousand dollars ($45,000) per annum.

(4) The salary of each district judge, payable out of the state treasury, shall be thirty-eight thousand five hundred dollars ($38,500) per annum.

(5) In order to equate or adjust the compensation of justices and judges of the court of justice with the purchasing power of the dollar, the finance and administration cabinet shall compute by July 1 of every year, beginning on July 1, 1981, the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year. Upon notification from the finance and administration cabinet, the annual salary of justices and judges of the court of justice for fiscal years *1984-1985 through and including 1985-1986* [~~1982-1983 and 1983-1984~~] shall be set at a rate which includes the adjustment for the increase or

decrease in the consumer price index, but in no event shall a justice or judge of the court of justice receive an annual increase exceeding five percent (5%) of salary.

Section 5. For the purpose of funding the amendment to KRS 26A.090 there is appropriated to the Court of Justice Local Facility Fund out of the General Expenditure Fund in the state treasury the following sums:

1984-85	1985-86
$112,000	$112,000

Section 6. For the purpose of funding the amendment to KRS 64.485, there is appropriated to the Court of Justice for court operations and administration out of the general expenditure fund in the state treasury the following sums:

1984-85	1985-86
$570,200	$1,169,300

HB 580, AN ACT relating to the judicial retirement plan and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees of the judicial form retirement system shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the judicial retirement plan. The board may authorize present and future recipients of a retirement allowance from the judicial retirement plan who are under age sixty-five (65) to be included in the state employes' group for hospital and medical insurance and shall provide insurance coverage for recipients equal to that provided to state employes having the same medicare hospital and medical insurance eligibility status.

(2) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Service	*Percentage of Premium*
240 or more	*100%*
180 to 239, inclusive	*75%*
120 to 179, inclusive	*50%*
48 to 119, inclusive	*25%*

The foregoing payments shall be made by the fund only if the recipient agrees to pay the remaining (if any) percentage of the premium by deduction from his retirement allowance or by another method equally insuring such payment by him.

(3) In the case of a recipient who is a retired former member of the judicial retirement plan, the insurance to be provided shall be family plan.

(4) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute taxable income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

(5) If, by reason of being a recipient of retirement benefits from any of the systems embraced in the Kentucky retirement systems, or the teachers retirement system, or the legislators retirement plan, a recipient of retirement benefits is entitled to have all or a portion of the premium for hospital and medical benefits paid through such other system or plan, in addition to payment under this section, arrangements shall be made between the judicial retirement plan and such other system or plan for but one (1) policy of insurance to be procured, through one (1) of the systems or plans, which shall pay the shares of the others and be reimbursed by inter-account charge. If the combined payments would exceed one hundred percent (100%) of premium, the premium payments shall be apportioned between the other system or plan and the judicial retirement plan, in accordance with the respective years of service credit in each system or plan, so that the combined payments will not exceed one hundred percent (100%).

Section 2. For purposes of funding this new section of KRS Chapter 21, there is appropriated to the board of trustees of the judicial form retirement system out of the general expenditure fund in the state treasury the following sums:

1984-85	1985-86
$137,200	$145,400

HB 583, AN ACT to revise and correct the Kentucky Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.

(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in

voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the

city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the Lexington-Blue Grass Army Depot and in the election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122,

A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, that part of Sandfordtown not contained in the Sixty-third District, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the city of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: that part of Bromley precinct not contained in Ludlow city and in Bromley city, Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, and Burtonsville and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the *Hardy* [~~Handy~~] Fork Road, thence with the centerline of *Hardy* [~~Handy~~] Fork Road to its termination; thence with a straight line from the

end of the *Hardy* [~~Handy~~] Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway *559* [~~509~~]; thence with the centerline of State Highway *559* [~~509~~] northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, Aspendale, Bluegrass, Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, Ohio, Rookwood, Victory, Walnut Street, Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, Douglas, Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, Imperial, Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles Pike, Viley Heights, Washington, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and Arlington.

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport, Blueberry Hills, Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell, Malabu, Montavesta, Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, Tudor, Bayswater, Kirklevington, Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview, Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, River Park, Blairmore, Edgewater, Ascot, Park Hills, Cove Lake, Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner , Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood , Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

Section 2. KRS 6.160 is amended to read as follows:

(1) The chief *clerk* [~~clerks~~] of each house shall file and preserve in the office of his house a correct copy of the journal of its proceedings. At the close of each session of the general assembly, he shall make an inventory of all the books, stationery and furniture belonging to his house, box up all the books, and deliver the books, stationery and furniture to the *co-chairmen* [~~chairman~~] of the legislative research commission and take *a* [~~his~~] receipt for them.

(2) The chief clerk and assistant clerk of each house shall keep an accurate journal of each day's proceedings; do all necessary engrossing of bills; and read and compare enrolled bills.

(3) The enrolling clerk shall promptly and accurately enroll all bills delivered to him for that purpose which originated in the house of which he is enrolling clerk.

(4) Either house may prescribe additional duties for the chief clerk, assistant clerk or enrolling clerk.

Section 3. KRS 6.161 is amended to read as follows:

The chief clerk of each house shall furnish a correct journal of its proceedings for each day to the legislative research commission as soon as the journal is approved by the house. The legislative research commission shall carefully compare or have compared the proofs of the journals[~~, as furnished by the public printer, with the journals furnished to the printer and correct any errors and supply any omissions appearing in them. The public printer shall not bind the journals for final distribution until the corrected proofs have been furnished him by the legislative research commission~~].

Section 4. KRS 6.162 is amended to read as follows:

The expenses of preparing, indexing, and editing the journals of the general assembly shall be paid from the appropriation for legislative journals and acts upon requisition of the *co-chairmen* [~~chairman~~] of the legislative research commission.

Section 5. KRS 6.185 is amended to read as follows:

All funds appropriated for legislative sessions shall be placed in a legislative session fund. All compensation of members and employes and all contingent expenses of the general assembly shall be paid from this fund on vouchers approved by the *co-chairmen* [~~chairman~~] of the legislative research commission.

Section 6. KRS 6.210 is amended to read as follows:

The compensation and travel allowance of the lieutenant governor, president pro *tempore* [~~tem~~] of the senate, speaker of the house of representatives and members of both houses of the general assembly shall be paid on the certificate of the *co-chairmen* [~~chairman~~] of the legislative research commission of the amount due.

Section 7. KRS 6.225 is amended to read as follows:

Between sessions of the general assembly offices shall be maintained in the state capitol building for the use and benefit of the president pro *tempore* [~~tem~~] of the senate and the speaker of the house of representatives. Except when the general assembly is in session the president pro *tempore* [~~tem~~] of the senate and the speaker of the house of representatives shall each receive an amount per day equal to the per diem compensation such persons receive during sessions of the general assembly for each day they are engaged in the duties of their offices and shall be reimbursed for necessary traveling expenses.

Section 8. KRS 6.245 is amended to read as follows:

(1) Members of the general assembly and members-elect of the general assembly who have received their certificates of election are hereby authorized, during such time as the general assembly is not in session, to pre-file bills and resolutions for introduction in the next succeeding regular legislative session with the director of the legislative research commission. Bills and resolutions which are pre-filed under the provisions of this section shall be in such final and correct form for introduction in the general assembly as required by the constitution, laws and rules of the respective houses of the legislature. The original copy of every bill and resolution pre-filed shall include thereon, immediately below the typed or printed name of the sponsor thereof, the full signature of said sponsor.

(2) The director of the legislative research commission is authorized and directed to receive pre-filed bills and resolutions, to assign numbers for introduction in the proper house in order of receipt, [~~to deliver copies to the printing contractor for pre-session printing,~~] and, subject to the provisions of subsection (3) of this section, to deliver the original and four (4) copies of each bill and resolution to the secretary of the senate or the chief clerk of the house, as the case may be, on the first day of the regular session. Pre-filed bills and resolutions shall be considered as introduced on the day of their delivery to each house. No measure that is filed and printed pursuant to this section shall be distributed to members, members-elect or the public unless the person filing the measure specifically authorizes in writing such distribution.

(3) Notwithstanding the provisions of subsection (2) of this section, in the event all the persons sponsoring a pre-filed bill or resolution shall have ceased to be members of the general assembly at the time of the convening of the next succeeding regular legislative session, the pre-filing of that bill or resolution shall be considered to be without effect, and the director of the legislative research commission shall not deliver the original or copies to the secretary of the senate or the chief clerk of the house.

Section 9. KRS 6.500 is amended to read as follows:

There hereby is created a retirement plan for the members of the general assembly (hereinafter "legislators"). Each legislator in office on the July 1, 1980, and each legislator thereafter taking office, may acquire membership in the plan in accordance with the provisions of KRS 6.505. [~~In the event that a legislator in office during the 1980 regular session of the general assembly should die prior to July 1, 1980, then the person who would have been eligible for survivor benefits, had the legislator elected membership in the legislators' retirement plan, may elect such membership pursuant to KRS 6.505 and be eligible for survivor benefits of the legislators' retirement plan.~~]

Section 10. KRS 6.505 is amended to read as follows

(1) Each legislator in office on July 1, 1980 may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the legislators' retirement plan, in an amount equal to five (5) percent of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980 or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980 and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the legislators' retirement plan, for the months between July 1, 1980 and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one of which was due at the end of each month between July 1, 1980 and the date the election was made. The election shall be addressed to and filed with the secretary of the finance and administration cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five (5) percent thereof, as a voluntarily elected contribution by the member towards the funding of the legislators' retirement plan. Such election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530. An election once made under this section either to participate or not to participate in the legislators' retirement plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.

(2) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue code, pick up the employe contributions required by this section for all compensation

earned after August 1,1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). [~~However, the state shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe.~~] The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The state shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

(3) When any legislator elects membership in the legislators' retirement plan in accordance with this section, his active membership in the Kentucky employes' retirement system, state police retirement system, county employes' retirement system, or teachers' retirement system shall terminate, as of the date his membership in the legislators' retirement plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the legislators' retirement plan, shall be transferred to and counted as service credit in the legislators' retirement plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.

(4) A member of the legislators' retirement plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky employes' retirement system, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the legislators' retirement plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky employes' retirement system for credit which would be transferred to the legislators' retirement plan. In such event, the Kentucky employes' retirement system shall transfer to the legislators' retirement plan an amount equal to the employer's contributions that originally were made to the Kentucky employes' retirement system for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the legislators' retirement plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552.

Section 11. KRS 6.520 is amended to read as follows:

(1) A member of the legislators' retirement plan who retires on or after his normal retirement date [~~but not before December 30, 1981,~~] shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be two thousand two hundred ninety-one dollars sixty-six cents ($2,291.66).

(2) A member shall have rights, with respect to retirement before reaching normal retirement date[~~, but not before December 30, 1981,~~] in the *legislators'* [~~legislators~~] retirement plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the judicial retirement plan for members of that plan, except that the reduction in a *legislators'* [~~legislators~~] service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.

(3) [~~Survivor benefits shall not be subject to the December 30, 1981 deferment date as specified in subsection (1) of this section.~~

~~(4)~~] Subsections (1) *and (2)* [~~through (3)~~] of this section to the contrary notwithstanding, each legislator in office on July 1, 1982 that is a member of the *legislators'* [~~legislative~~] retirement plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the court of justice with an equivalent service entrance date, but in no event less than that specified in Acts 1980, Chapter 407, Section 15, subsection (1), of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement.

(4)[~~(5)~~] Subsections (1) *and (2)* [~~through (3)~~] of this section to the contrary notwithstanding, a member of the *legislators'* [~~legislative~~] retirement plan with a service entrance date after July 1, 1982 who

retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

Section 12. KRS 7.120 is amended to read as follows:

(1) The legislative research commission shall formulate, supervise and execute plans and methods for the future revision, clarification, classification, codification, arrangement, annotating, indexing, printing, binding, publication, copyrighting, sale and distribution of the Kentucky Revised Statutes, including annotations and supplements, and all editions thereof.

(2) The commission shall prepare and submit to the general assembly such consolidation, revision and other matters relating to the statutes as can be completed from time to time.

(3) The commission shall keep in its office an accurate and complete record of all legislation enacted by the general assembly and shall study same for the purpose of determining the intention and the effect thereof. [~~The commission shall prepare and keep accurate and complete annotations of court decisions construing the statutes.~~] The commission shall advise and assist the members of the general assembly in the preparation and revision of legislation and matters connected therewith. When preparing and revising legislation for members of the general assembly the commission shall maintain the confidentiality of each item of legislation which it is requested to prepare, and of the fact that such request has been made, until such time as the member or members of the general assembly having made the request shall introduce said legislation at a regular or extraordinary session of the general assembly or shall in writing authorize its publication by the commission. The commission shall, when requested by the general assembly or either house thereof, report to the general assembly on bills introduced, calling attention to their effect on existing legislation and to any deficiencies in their form.

Section 13. KRS 7.125 is amended to read as follows:

The reviser of statutes is directed to *require publication* [~~publish~~] in the Kentucky Revised Statutes *of* the Rules of Civil Procedure and the Rules of Criminal Procedure.

Section 14. KRS 7.132 is amended to read as follows:

(1) The commission shall determine when editions of KRS, supplements and supplementing pocket parts thereto shall be published and shall provide for the sale thereof. The commission *shall designate the publisher or publishers of the official version of the Kentucky Revised Statutes* [~~may contract for the printing and binding of editions and supplemental publications without regard to the laws governing state printing except that any such contract shall be let upon bids to the lowest and best bidder. The commission shall promulgate regulations providing for the letting of bids and the advertisements therefor~~].

(2) [~~All publications of statutes under KRS 7.120, 7.132, 7.134, 7.136, 7.138 and 7.140 shall be sold at prices fixed by the commission.~~] The commission may[~~, however,~~] furnish to the state law library, without cost, on request of the chief justice, such copies of the publications as are necessary to enable the state law librarian to carry out duties imposed on him by law. The commission shall include in its report to each regular session of the general assembly a statement showing the cost, number of copies, *sale* [~~sales~~] price, and distribution of all copies of any edition published since the last regular session.

(3) [~~The commission shall control and supervise the use of type acquired by the state under any contract for the printing of the statutes and may permit the use of the type for the printing of pamphlets of particular portions of the statute laws requested by any state department or agency, under such terms and conditions as the commission considers reasonable.~~

~~(4)~~] Any supplement or supplemental pocket parts published under KRS 7.120, 7.132, 7.134, 7.136, 7.138 and 7.140, may be cited as "KRS Supp." or "KRS p. p." respectively.

Section 15. KRS 7.136 is amended to read as follows:

(1) The commission, in preparing editions of the statutes or supplements or pocket parts thereto for publication or distribution, shall not alter the sense, meaning or effect of any act of the general assembly, but may renumber sections and parts of sections of the acts of the general assembly, change the wording of headnotes, divide or rearrange sections and parts of sections, change words when directed by law, change reference numbers to agree with renumbered chapters or sections, or to make corrections in reference numbers when sections referred to are repealed or amended and the correction can be made without change in the law, substitute the proper section or chapter numbers for the terms "this act," "the preceding section," and the like, [~~strike out figures where they are merely a repetition of written words,~~] change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors.

(2) In any edition of Kentucky Revised Statutes or supplement thereto hereafter published, the reviser of statutes may substitute the name of any agency, officer or instrumentality of the Commonwealth or of a political subdivision whose name is changed by law or to which powers, duties and responsibilities have been transferred by law, for the name which the agency, officer or instrumentality previously used or of the agency which was previously vested with the same powers and charged with the same duties and

responsibilities.

(3) If any section or part of a section of *a* [~~the~~] statute [~~edition or of any supplement or pocket part thereto~~] or of any act of the general assembly is amended by more than one (1) act at the same session of the general assembly, the commission may incorporate in the statute [~~edition, supplement or pocket part~~], the section as amended or altered by the several acts, if each of the amendments, changes or alterations can be given effect and incorporated in the section in a manner which will make the section intelligible. If a conflict appears between any section amended in an act to revise and amend the Kentucky Revised Statutes and the same section in any other act adopted at the same session of the general assembly the change or alteration effected by the nonrevisory act shall be inserted in the section as incorporated in the statute publication.

Section 16. KRS 7.138 is amended to read as follows:

(1) When any complete edition of the statutes is published [~~by the commission~~], the reviser of statutes shall prepare a certificate that the same contains all statute laws of the Commonwealth of a general nature except those omitted pursuant to KRS 7.134, that each section printed in the edition has been compared with the original section in the enrolled Kentucky Revised Statutes, or, in the case of sections of acts enacted after the adoption of the Kentucky Revised Statutes, with the original section in the enrolled bill, and that, with the exception of the changes in form permitted by KRS 7.136, the sections in the printed edition are correctly printed. A similar certification for each supplement or supplemental pocket part shall be made but it need not recite that same contains all general statute laws. [~~One (1) copy of the edition, with the original certificate affixed thereto, shall be filed in the office of the secretary of state.~~] All [~~other~~] copies of the edition shall contain a printed copy of the certificate.

(2) Any edition so certified shall constitute prima facie evidence of the law in all courts and proceedings, and any section in such edition may be amended or repealed by reference to the section number, without reference to the legislative act from which it was compiled. No compilation of the statute laws of Kentucky not bearing such a certificate shall be admissible as evidence of the law in any court or proceeding.

Section 17. KRS 7.140 is amended to read as follows:

(1) The execution of the functions provided for in KRS 7.120, 7.132, 7.134, 7.136, 7.138 and this section shall be carried out by a reviser of statutes, who shall be appointed by the commission upon recommendation of the director [~~and by and with the consent and approval of the advisory committee on statute revision~~]. The reviser may be removed only upon the approval of the *legislative research commission* [~~advisory committee on statute revision~~]. The reviser shall be learned in the law and shall be either a member of the Bar of Kentucky or a person who has had at least two (2) years of responsible experience in statute revision work in some other state.

(2) [~~The reviser of statutes shall employ and fix the compensation of an assistant reviser of statutes, and with the approval of the director, such clerical assistants as are necessary to carry out the commission's functions relating to statute revision.~~

~~(3)~~] The reviser of statutes shall perform any additional duties required by the commission. He shall cooperate with and assist the director of the legislative research commission to the fullest extent practicable in the performance of his duties and on request of the director shall draft bills, provide legal research and other assistance and perform such other duties as do not substantially interfere with the performance of his duties under KRS 7.120, 7.132, 7.134, 7.136, 7.138 and this section. [~~The director shall furnish the reviser with adequate office space, office furniture and supplies, books and legal publications, duplicating, mailing, telephone and electric service and bookkeeping and other management service. Personnel services may be interchanged on a cooperative basis.~~

~~(4) The commission shall set aside from the moneys appropriated to it an amount necessary for the statute revision function.~~]

Section 18. KRS 11.400 is amended to read as follows:

(1) In addition to the duties prescribed for the office by the constitution of the Commonwealth of Kentucky and by the rules of the senate, the duties of the lieutenant governor shall be as follows:

(a) To serve as vice-chairman of the state property and buildings commission as prescribed by KRS 56.450;

(b) To serve as vice-chairman of the Kentucky turnpike authority as prescribed in KRS 175.430;

(c) To serve as a member of the Kentucky council on agriculture in accordance with KRS 247.417;

(d) To serve as vice-chairman of the county debt commission as provided in KRS 66.300;

(e) To appoint three (3) members of the board of ethics of the Kentucky general assembly in accordance with KRS 6.810;

(f) To appoint one (1) member of the public officials' compensation commission as provided in KRS 64.742;

(g) To serve as a member of the economic development commission;

(h) To serve as a member of the Kentucky port and river development authority pursuant to KRS 154.320;

(i) To serve as a member of the board of the Kentucky housing corporation in accordance with KRS

198A.030;

(j) To serve as a member of the appalachian development council as provided in KRS 154.600;

(k) To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

1.[~~(i)~~] The southern growth policies board as prescribed by KRS 147.585;

2.[~~(ii)~~] The breaks interstate park commission as provided in KRS 148.225;

3.[~~(iii)~~] The falls of the Ohio interstate park commission pursuant to KRS 148.242;

4.[~~(iv)~~] The Tennessee-Tombigbee waterway development authority pursuant to KRS 182.305;

5.[~~(v)~~] The interstate water sanitation control commissions as prescribed by KRS 224.205; and

6.[~~(vi)~~] The Kentucky mining advisory council for the interstate mining compact as provided by KRS 350.310.

(2) Nothing in this section shall prohibit the governor and lieutenant governor from agreeing upon additional duties within the executive branch of the state government to be performed by the lieutenant governor.

Section 19. KRS 15.105 is amended to read as follows:

(1) The attorney general, with the approval of the head of the *cabinet* [~~department~~] or the commission involved shall appoint an assistant attorney general for the transportation cabinet, for the department of revenue, and for the railroad commission.

(2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective *agency* [~~department or commission~~] to which they are assigned.

Section 20. KRS 15.310 is amended to read as follows:

As used in KRS 15.310 to 15.510 and KRS 15.990 to 15.992, unless the context otherwise requires:

(1) "Council" means the Kentucky law enforcement council established by KRS 15.310 to 15.510 and KRS 15.990 to 15.992.

(2) *"Department"* [~~"Bureau"~~] means the *department* [~~bureau~~] of training of the [~~department of~~] justice *cabinet.*

(3) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and *special local peace officers* [~~private security guards~~] licensed pursuant to *KRS 61.360* [~~state statute~~].

(4) "Secretary" means the secretary of the [~~department of~~] justice *cabinet.*

Section 21. KRS 15.370 is amended to read as follows:

No person shall act as a police instructor or engage in police training as defined in KRS 15.350 to 15.370 unless he shall possess a certification or waiver of certification issued by the council[~~, or as provided in subsection (4) of KRS 15.360~~].

Section 22. KRS 18A.090 is amended to read as follows:

(1) As provided by the budget enacted by the general assembly and other laws applicable to state personnel, the board shall appoint an executive director who shall be the chief administrative officer of the board and serve as secretary to the board. He shall have proven administrative and managerial experience and familiarity with equal employment opportunity laws and regulations. The board shall appoint other employes it deems necessary in accordance with the provisions of this chapter. The salaries of the executive director and other employes of the board shall be determined by order of the board. The executive director of the board shall prepare the budget request for approval by the board in the form and manner required by applicable law. For the purposes of KRS *48.050* [~~45.070~~] the board shall be considered a budget unit.

(2) The attorney general shall be an advisory member of the board.

Section 23. KRS 18A.202 is amended to read as follows:

Subject to the approval of the personnel board, the commissioner is authorized to install and implement by regulation work-related incentive programs for state employes. Such programs may include, but *need* not be limited to, an employe suggestion system whereby employes in the classified service may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. Such programs may provide that when an employe suggestion has been adopted and resulted in a financial savings to the state, the employe who submitted the suggestion may be compensated for his service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars ($2,500).

Section 24. KRS 21.347 is amended to read as follows:

The judicial retirement system established by KRS 21.345 to *21.510* [~~21.520~~] shall hereafter be designated and known as the judicial retirement plan. There is established within that plan a state fund to be known as the judicial retirement fund, which shall consist of all money and securities of the judicial retirement system immediately prior to July 1, 1980; all allotments to be received of moneys theretofore appropriated to or for the judicial retirement system or judicial retirement board and not yet allotted; all state appropriations to the judicial retirement fund or the judicial retirement plan; all earnings from investment of the fund (including insurance benefits); and all contributions from members of the plan. The fund may [~~include such subordinate accounts as required by KRS 21.520, and may~~] have a subordinate administrative account. The benefits provided to be paid by reason of membership in the judicial retirement plan shall not be chargeable to any other retirement fund.

Section 25. KRS 21.360 is amended to read as follows:

(1) Each judge of the district court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to five percent (5%) of his monthly official salary. The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the finance and administration cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, an amount equal to five percent (5%) of the monthly salary, as a voluntary contribution by the member towards the funding of the retirement system. Such election, upon being made, shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.

(2) Membership and benefit rights for judges and justices (other than judges of the district court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.

(3) When any judge of the district court in office on July 1, 1978 elects membership in the judicial retirement system in accordance with this section, his membership in the Kentucky employes retirement system shall terminate as of July 1, 1978 and any credit in that system he earned for service as a judge of the district court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.

(4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). [~~However, the state shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe.~~] The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. The state shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

(5) An election once made under this section, either to participate or not to participate in the judicial retirement plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.

Section 26. KRS 21.405 is amended to read as follows:

(1) As of July 1, 1982, the board of trustees of the Kentucky judicial form retirement system shall recompute the monthly benefits of persons then receiving benefits under the judicial retirement plan, by using the same service credit rate and the same number of years of service that were used in computing the benefits then being received, but substituting, in lieu of the "final compensation" that was used in the computation of the benefit then being received, an amount equal to fifty-five percent (55%) of the final compensation of the office in which the credit was earned, for a person retiring as of June 30, 1982. [~~Further, any benefit being received on July 1, 1982, that was based on former KRS 23.340 shall be increased by forty-five percent (45%) commencing as of July 1, 1982.~~]

(2) As of July 1, 1983, and as of July 1 of each year thereafter, the board of trustees of the Kentucky judicial form retirement system shall recompute the monthly benefits of persons then receiving benefits under the judicial retirement plan, by using the following formula: two and three-fourths percent (2.75%) times fifty-five percent (55%) of the final compensation of the office in which the retirement credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed

thirty-six (36) years).

(3) In making the recomputations provided for in subsections (1) and (2) of this section, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with subsection (1) or (2) of this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing annual recomputations in accordance with subsection (2) of this section. For the purposes of this section, the following office equivalents shall be used: judge of former Court of Appeals - justice of Supreme Court; any position other than judge or justice that was covered by the judicial retirement system - judge of the present Court of Appeals.

Section 27. KRS 21.440 is amended to read as follows:

[~~The judicial retirement board shall:~~]

(1) *The investment committee for the judicial retirement fund shall* [~~Be charged with the administration of KRS 21.350 to 21.510, and for that purpose may make reasonable rules and regulations;~~

~~(2) Provide for the funding of the benefits provided for by KRS 21.350 to 21.510, including the adoption of actuarial methods and assumptions upon the advice of a competent actuary who may be employed for that purpose.~~] at least once in every two (2) year period [~~the board shall~~] procure an actuarial valuation of the judicial retirement *fund* [~~system~~]. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the *fund* [~~system~~] and represent the actuary's best estimate of anticipated experience. A copy of the valuation shall be forwarded to the legislative research commission within ten (10) days of receipt by the *committee.* [~~board;~~]

(2) The board of trustees of the judicial form retirement system shall [~~(3) Pass upon questions of eligibility, and maintain suitable records for that purpose;~~

~~(4) Pass upon questions of disability, and employ examining physicians for that purpose;~~

~~(5) (a)~~]annually procure an audit of the [~~judicial retirement~~] system *and each of the funds therein.* The audit shall be conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion.[~~;~~

~~(b)~~] The board shall make copies of the audit required by this section available for examination by any member or beneficiary in the office of the manager of the [~~judicial retirement~~] system and in such other places as may be necessary to make the audit available to all members and beneficiaries. A copy of the [~~annual~~] audit shall be sent to the legislative research commission within ten (10) days of receipt by the *committee* [~~board~~].

Section 28. KRS 21.460 is amended to read as follows

(1) If any member of the plan ceases, other than by death or by disability retirement under KRS 21.410, to hold an office qualifying him for membership in the plan established by KRS 21.350 to 21.480, without having met the requirements for vesting, he shall be refunded on demand the amount of his accumulated contributions and any service credit he had in the plan shall be nullified.

(2) The member may elect to leave his contributions in the plan, in which event the service credit he had in the plan shall be considered to be service credit for vesting purposes as provided in KRS 21.375 and for service retirement eligibility as provided in KRS 61.680(7), and, in the event he again becomes a member of the judicial retirement plan, shall be counted toward his total service credit in that plan.

(3) If a person who has been refunded his contributions in accordance with subsection (1) of this section subsequently becomes a member of the legislators' retirement plan, the Kentucky employes' retirement system, county employes' retirement system, state police retirement system, or teachers' retirement system, he may while holding such membership repurchase the service credit he previously had in the judicial retirement plan by repaying to that plan the amount that was refunded to him with interest at six percent (6%) per annum, in which event such service credit shall have operative effect to the same limited extent as provided in subsection (2) of this section.

(4) If a person who has been refunded his contribution in accordance with subsection (1) of this section thereafter becomes again the holder of an office qualifying him for membership in the judicial retirement plan, he shall not be entitled to credit for his prior period of service unless he has previously repaid his refunded contributions in accordance with subsection (3) of this section or unless *within thirty (30) days after again assuming office* [~~at the time of his election to again participate in the plan~~] he repays to the plan the amount that was refunded to him with interest at six percent (6%) per annum.

Section 29. KRS 21.510 is amended to read as follows:

For the purposes of KRS 21.350 to 21.510 there is appropriated to the judicial retirement *fund* [~~board~~] all sums received from contributions of members of the retirement system created by KRS 21.350 to 21.510. There further is appropriated, out of the general expenditure fund in the state treasury, the sum of $53,600 for the fiscal year 1960-61 and the sum of $73,600 for the fiscal year 1961-62. The amount of accumulated state employer contributions to the Kentucky employes' retirement system, on account of judges and commissioners of the Court of Appeals having been members of that system, also is hereby transferred to the judicial retirement *fund* [~~board~~]. All sums appropriated or transferred to the judicial retirement *fund* [~~board~~] shall be deemed to constitute a continuing fund which shall not lapse at the end of any fiscal year.

Section 30. KRS 21.540 is amended to read as follows:

Except as provided in KRS 21.550 and 21.560, the board of trustees of the judicial form retirement system shall be charged with the administration of that system and of KRS 21.350 to *21.510* [~~21.520~~], and shall have all powers necessary thereto, including the power to make all reasonable rules and regulations, pass upon questions of eligibility and disability, and make contracts or employments for services. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.

Section 31. KRS 21.560 is amended to read as follows:

The members of the board of trustees of the judicial form retirement system who are appointed by the president pro tem of the senate and the speaker of the house of representatives, singly or jointly, together with the members of the board who are appointed by the governor, shall constitute an investment committee for the legislators' retirement plan, and as such shall have all the powers and duties with respect to the legislators' retirement fund as are given by KRS *21.440(1) and* 21.550 to the investment committee of the judicial retirement plan with respect to the judicial retirement fund. The committee provided for by this section may, with the concurrence of the investment committee for the judicial retirement plan, arrange for the legislators' retirement fund and the judicial retirement fund to constitute a common fund for investment purposes only, to be under the management of the investment committee for the judicial retirement plan, each fund sharing in the common fund in proportion to the value of its assets contributed to the common fund.

Section 32. KRS 42.010 is amended to read as follows:

As used in KRS 42.023 to *42.025* [~~42.030~~], unless the context requires otherwise, "state agency" means any state administrative body, department or division as defined by KRS 42.005.

Section 33. KRS 42.024 is amended to read as follows:

(1) The division of accounts shall perform such financial record keeping functions as the secretary directs and shall in general be responsible for and perform the functions of the cabinet as outlined in KRS *45.305* [~~45.300~~] and *48.800* [~~45.320~~], and other related statutes.

(2) The division of purchases shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation and repair of state-owned buildings. The division of purchases shall be responsible for the control of all state-purchased personal property and for the disposition of all state-purchased personal property declared surplus.

Section 34. KRS 42.029 is amended to read as follows:

(1) There is established a department of state government to be known as the department of information systems. The department shall be a part of the finance and administration cabinet. The department of information systems shall be headed by a commissioner, appointed by the secretary of the finance and administration cabinet, with the approval of the governor. The commissioner shall be responsible to the secretary.

(2) The secretary of the finance and administration cabinet shall appoint, with the approval of the governor, a deputy commissioner of the department of information systems, pursuant to KRS 12.050. The commissioner of information systems, with the approval of the secretary of the finance and administration cabinet, may appoint such principal assistants, pursuant to KRS 12.050, as may be necessary for the development and implementation of policy. The commissioner may employ, pursuant to the provisions of KRS Chapter 18A, such personnel as may be necessary to execute the functions and duties of the department.

(3) The department of information systems shall include the following divisions, each of which shall be headed by a director appointed by the secretary with the approval of the governor, pursuant to KRS 12.050:

(a) The division of operations, which shall be responsible for computer operations, including the data center, remote batch entry, data control, on line support, and maintenance of the computer operations facility.

(b) The division of systems support, which shall be responsible for all computer hardware operations, research, development, programming, evaluation, and security systems.

(c) The division of special projects, which shall be responsible for ensuring dependable development and implementation of high priority data processing projects.

(d) The division of data management, which shall be responsible for data base administration, information retrieval and access for all state agencies and all types of software support for internal department development activities.

(e) The division of systems engineering, which shall be responsible for providing development and maintenance of all state agency application systems.

(f) The division of systems planning and administration, which shall be responsible for systems planning and fiscal administration.

(g) The division for statewide financial systems, which shall be responsible for the development and implementation of the uniform and integrated system of accounts and the uniform personnel payroll system, including technical support.

(4) There is established within the division for statewide financial systems an accounting principles task force, which shall study and evaluate the Commonwealth's accounting system and develop recommendations and proposals for modifications and changes necessary to be installed in a unified and integrated system of accounts for state government, complying with generally accepted principles as provided in KRS *45.305* [~~45.300~~].

Section 35. KRS 42.350 is amended to read as follows:

(1) The area development fund in the state treasury shall be administered by the finance and administration cabinet. The fund may receive state appropriations, gifts, grants and federal funds and shall be disbursed by the state treasurer upon the warrant of the secretary of the finance and administration cabinet. Any unallotted or unencumbered balances in the fund shall be invested in United States government securities maturing not later than one (1) year from the date of investment and the income from such investments shall be prorated for expenditure for capital projects in area development districts according to the formula provided in KRS 42.370.

(2) Money in the fund shall be used only for capital projects which contribute to community or industrial development in the Commonwealth, KRS *48.300 and 48.500* [~~45.050~~] notwithstanding. Capital projects eligible for financing out of the fund include and shall be limited to:

(a) The construction, reconstruction, renovation and maintenance of buildings and other improvements to real estate;

(b) The acquisition of real property and interests in real property;

(c) The purchase of major items of equipment;

(d) Industrial site development projects, including land reclamation, clearing, grading, draining, landscaping, and the construction of walkways and fences;

(e) The extension and installation of water, gas, sewer, and electrical utilities lines to public facilities and industrial sites;

(f) The provision of solid waste management or disposal systems bringing counties into compliance with state or federal law. All expenses incurred in connection with or incidental to the construction or acquisition of a capital project under this section, including architectural, engineering, legal, and other expenses required for such projects may be paid out of the fund. Money in the fund may be used to retire a mortgage or other indebtedness encumbering an eligible capital project made on and after January 1, 1977 to secure the repayment of monies loaned or advanced to finance the construction or acquisition of such project, and may be used in match or in combination with funds obtained from other sources for an eligible capital project. No money shall be expended out of the fund, directly or indirectly, to pay or reimburse the cost of any feasibility study, master plan for any capital improvement development or redevelopment project, the purchase of consumable supplies or any administrative salary, or other operating or capital expense of any area development district, or for the acquisition, construction, reconstruction, renovation or maintenance of any building or property of schools, state institutions of higher learning, or any road, street, bridge or highway.

(3) The board of directors of each area development district shall determine from among the capital project proposals submitted by eligible beneficiary agencies, the capital projects to be proposed to be constructed or acquired out of the fund. The area development districts shall submit to the secretary of the finance and administration cabinet through the department for local government the capital projects selected for construction or acquisition within the districts. Each project proposal shall include: a detailed description of the project; a statement of the public benefit to be derived from the project; if available, design plans and specifications for the project; an itemized estimate of the cost of the project; a statement of the sources and amounts of funds available from any other source for the construction or acquisition of the project; and such other information relating to the proposed capital project as the department for local government or the finance and administration cabinet may require.

Section 36. KRS 42.990 is repealed and reenacted as a new section of KRS Chapter 45 and amended to read as follows:

Any officer, agent, or employe of the finance and administration cabinet who wilfully fails or refuses to comply with any of the provisions of KRS *45.131* [~~42.160~~] is subject to indictment in the Franklin Circuit Court and, upon conviction shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) for each offense.

Section 37. KRS 43.070 is amended to read as follows:

(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks, sheriffs, and jailers; provided, however, that the auditor shall not conduct such an audit if the elected official notifies the auditor that he has employed a certified public accountant to audit the books, accounts, and papers of his office, in accordance with KRS 64.810.

(2) The auditor may audit the books, accounts and papers of all county judges/executive, county attorneys, coroners and constables.

(3) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to *subsections* [~~paragraph~~] (1)(b) and [~~subsection~~] (2) of this section. No county shall be required to bear the expense for more than one audit of the same fund or office annually pursuant to subsection (1)(a) or (1)(b) of this section except as provided for in KRS 64.810(4).

(4) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the auditor of public accounts shall bill the county for the expenses incurred pursuant to subsection *(3)* [~~(2)~~] of this section. A copy of this bill shall be forwarded to the secretary of the finance and administration cabinet. Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the finance and administration cabinet and to the state treasurer for resolution of the controversy in accordance with subsection *(5)* [~~(4)~~] of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the auditor shall notify the secretary of the finance and administration cabinet and the commissioner of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the auditor of public accounts. When an objection to the bill has been filed with the secretary of the finance and administration cabinet and the state treasurer in accordance with subsection *(5)* [~~(4)~~] of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

(5) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the finance and administration cabinet and the state treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

Section 38. KRS 45.236 is amended to read as follows:

Notwithstanding the provisions of KRS *45.229* [~~45.230~~] and notwithstanding any other provision of the Kentucky Revised Statutes, any unexpended or unencumbered balance of any social security appropriation, made available for expenditure by the *cabinet* [~~department~~] for human resources in the administration of its child welfare functions for the first fiscal year of each biennium, remaining at the end of such fiscal year, shall be carried forward and be available for expenditure at any time during the ensuing fiscal year within the biennium and no portion shall lapse to the general expenditure fund.

Section 39. KRS 45.990 is amended to read as follows:

(1) Any officer, agent or employe of any budget unit who wilfully fails or refuses to comply with any of the provisions of KRS *45.011 to 45.031, 45.121, 45.142, 45.151, 45.242, 45.244, 45.251, 45.253, 45.305, or 45.313* [~~45.010 to 45.170, 45.190 to 45.300, 45.320 or 45.330~~], or who expends any money in violation of any of the provisions of those sections, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of *KRS 45.244* [~~subsection (2) of KRS 45.190~~], he and his sureties shall be jointly and severally liable therefor.

(3) Any violation of KRS 45.360 shall be punished by a fine of not more than five thousand dollars ($5,000) or by a prison sentence of not less than one (1) year, nor more than five (5) years, or by both fine and imprisonment in the discretion of the jury.

(4) Any employe of the division of purchases, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement in the procurement of business, or the giving of business, including but not limited to personal service contracts, for, or to, or from, any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year, nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(5) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, including but not limited to personal service contracts, to any employe of

the division of purchases or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

Section 40. KRS 47.010 is amended to read as follows:

(1) Except as provided in this chapter and in KRS 342.480, all state revenue shall be credited to the general fund.

(2) All revenues realized from the gasoline tax imposed by KRS 138.220 or from any gasoline tax hereafter imposed by law, shall be credited to the state road fund.

(3) All fees and taxes collected under the provisions of KRS Chapter 281, and all revenue realized from any motor bus license tax hereafter imposed by law, shall be credited to the state road fund.

(4) All funds appropriated by law to revolving funds pursuant to the provisions of KRS *45.253* [~~45.140~~] shall be credited to such revolving funds.

(5) All funds collected under the provisions of KRS 278.120 to 278.150 for the support of the *public service* [~~energy regulatory~~] commission and the utility regulatory commission shall be credited as provided in those sections.

Section 41. KRS 58.010 is amended to read as follows:

As used in KRS 58.010 to 58.140, unless the context requires otherwise:

(1) "Public project" means any lands, buildings, or structures, works or facilities (a) suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare or the conservation of natural resources, including medical office buildings contiguous to hospital facilities, and shall also include the planning of any such lands, buildings, structures, works or facilities; or (b) suitable for and intended for use for the purpose of creating or increasing the public recreational, cultural and related business facilities of a community, including such structures as concert halls, museums, stadiums, theaters and other public facilities, together with related and appurtenant parking garages, offices and office buildings for rental in whole or in part to private tenants, dwelling units and apartment buildings for rental in whole or in part to private tenants, commercial and retail businesses, stores or other establishments, and any structure or structures or combination of the foregoing, or other structures having as their primary purpose the creation, improvement, revitalization, renewal or modernization of a central business or shopping community, and shall also include existing lands, buildings, structures, works and facilities, as well as improvements or additions to any such lands, buildings, structures, works or facilities.

(2) "Public project" as defined herein shall include projects intended for use as public property for public purposes by another governmental agency, including the United States government, other than the governmental agency acquiring the land or constructing the building, structure or facility.

(3) "Governmental agency" means the Commonwealth of Kentucky as such acting by or through any department, instrumentality or agency thereof, or any county, city, agency or instrumentality or other political subdivision of the Commonwealth[~~, or agency, or instrumentality thereof~~].

Section 42. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employe shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and to all other provisions thereof. Thereafter employe contributions shall be picked up by the employer pursuant to KRS 61.560 (4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement a member's accounts under the legislators' retirement plan, state police retirement system, Kentucky employes' retirement system, county employes' retirement system and teachers' retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employes' retirement system or county employes' retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employes' retirement system or county employes' retirement system and as a result of an act in line of duty becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system who becomes the holder of an office entitling him to membership in the judicial retirement plan or the legislators' retirement plan, but who does not elect within thirty (30) days after taking office in such service to participate in such plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system. In that event, the agency employing the member shall withhold employe contributions, or picked up employe contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the judicial retirement plan or the legislators' retirement plan, who does not elect within thirty (30) days after taking office to participate in such plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the teachers' retirement system, shall participate in the Kentucky employes' retirement system.

(4) (a) Prior to July 1, 1976 a person entering the service of an employer participating in the Kentucky employes' retirement system or the county employes' retirement system with service credit in the teachers' retirement system and who desires to retain membership in the teachers' retirement system, and who is permitted by that system to continue is hereby exempt from participating in the Kentucky employes' retirement system or the county employes' retirement system.

(b) Any person who has elected to retain membership in the teachers' retirement system as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system and who does not elect within thirty (30) days after taking office to participate in the legislators' retirement plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky employes' retirement system unless an election to retain membership in the teachers' retirement system is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the teachers' retirement system for the same period of service under the legislators' retirement plan or the Kentucky employes' retirement system as a member of the general assembly, but contributions made to the teachers' retirement system while a member of the general assembly shall be transferred to the legislators' retirement plan as provided for in KRS 6.535 when the member elects to join the legislators' retirement plan, and service credit in the legislators' retirement plan shall be granted as provided for in KRS 6.505*(3)*[~~(2)~~].

(5) Effective July 1, 1974 any member of the Kentucky employes' retirement system or county employes retirement system who is working in a position covered by one (1) of these retirement systems and his employe contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up such employe contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky employes' retirement system or county employes' retirement system who is working in more than one (1) position covered by one (1) of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the state police retirement system, Kentucky employes' retirement system, county employes' retirement system or teachers' retirement system, but who is a member of one (1) of such systems or is a former member of one (1) or more of such systems with valid service credit therein, will become eligible for service retirement benefits attributable to the amount of his actual service credit in each such system in which he has service credit when his combined service credit in all such systems, plus any service credit he has in the judicial retirement plan or legislators' retirement plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system.

Section 43. KRS 61.990 is amended to read as follows:

(1) [~~Any person who violates any provision of KRS 45A.330 to 45A.340, upon conviction, shall be punished by confinement in the penitentiary for not less than six (6) months, nor more than two (2) years, or fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or both, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.~~

~~(2)~~] Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of KRS 61.300 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both.

(2)[~~(3)~~] Any person who violates any of the provisions of KRS 61.360 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) or be imprisoned not less than ten (10) days nor more than sixty (60) days, or both.

Section 44. KRS 64.590 is amended to read as follows:

In the case of any political subdivision or local governmental unit or district other than a county or city, having a governing body or authority composed of more than one (1) member, such governing body or authority shall fix the compensation of every officer and employe of the political subdivision, local governmental unit or district whose compensation is payable from the funds of the political subdivision, governmental unit or district, except that in the case of officers elected by popular vote the same limitations and restrictions shall apply as are applicable under KRS *83A.070* [~~64.580~~] to the fixing of compensation of city officers elected by popular vote. Nothing in this section is intended to confer any power on any governing board or authority, with respect to the compensation of its own members, that it does not specifically possess under other statutes. This section applies to school districts, but is not intended to supersede any present provision of law relating to the fixing or payment of the compensation of teachers.

Section 45. KRS 64.810 is amended to read as follows:

(1) Any county clerk, sheriff, or jailer may employ a certified public accountant to audit the books, accounts, and papers of his office in lieu of the audit conducted by the state auditor of public accounts required by KRS 43.070, if the auditor of public accounts declines to perform the audit or has failed to respond to written notice of intent to employ a certified public accountant within thirty (30) days of receipt of the notice.

(2) If said official elects to exercise the right prescribed in subsection (1) *of this section*, then he shall:

(a) Notify in writing by January 30 following the calendar year to be audited the fiscal court of his county and the state auditor of the name of the certified public accountant employed by said official to audit the books, accounts, and papers of his office;

(b) Bear the cost of the audit from funds received or collected by him, and the cost of the audit shall be construed as an expense of his office.

(3) Any contract with a certified public accountant entered into as a result of the auditor of public accounts declining to perform the audit shall specify the following:

(a) The audit shall be completed by August 1 following the calendar year being audited;

(b) The certified public accountant shall forward a copy of the audit report and management letters to the county official, fiscal court of the county and the auditor of public accounts upon completion of the audit, and no later than August 1 following the calendar year being audited;

(c) The auditor of public accounts shall have the right to review the certified public accountant's work papers.

(4) After preliminary review of the certified public accountant's work papers, should discrepancies be found, the auditor's office may conduct its own audit to verify the findings of the certified public accountant's report. If such audit is conducted, the expenses to said county official, as directed by KRS 43.070*(4)*[~~(3)~~] shall be construed as an allowable expense of that office. If the audit conducted by the auditor of public accounts discloses discrepancies in the audit by the certified public accountant, the findings of the auditor of public accounts shall be deemed official for purposes of collection of money owed the county pursuant to KRS 64.820.

(5) No later than August 1 following the calendar year being audited, the county official shall submit the accountant's written report to the governor, the general assembly, the attorney general, the county officials' compensation board, the state librarian and county attorney of his county. In addition the official shall send the report to the newspaper having general circulation in the county of the official, and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.

(6) This section shall not be construed as eliminating the requirement that the books, accounts, and papers of the above named officials be audited yearly.

Section 46. KRS 66.633 is amended to read as follows:

The fiscal court of counties containing a city of the first class may, by resolution as required by KRS 66.610 to 66.650, on the recommendation of the county road engineer, cause the installation and assessment therefor of water, gas, and sewer service pipes in any public way before it is paved or repaved in accordance with KRS 66.610 to 66.650 [~~in the manner provided by KRS 93.390 and KRS 93.400~~] with "city legislative body" being read as "fiscal court," with "director of works" being read as "county road engineer," with "city" being read as "county," and with "ordinance" being read as "resolution," or in accordance with KRS 66.610 to 66.650, at the option of the fiscal court. Administrative costs may be included in the cost of the improvement.

Section 47. KRS 67.082 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 150.370, *525.130* [~~436.593~~], or any other statute that may be in conflict herewith, any county fiscal court may, whenever an epidemic or potential epidemic of a disease

transmissible to man and domestic animals exists or is threatened in any species of wildlife, declare all or any portion of said county to be an epidemic area. Following such declaration the fiscal court may, with approval of the *cabinet* [~~state department~~] for human resources and department of fish and wildlife resources conduct control programs, including population reduction programs, against any species of wildlife including, but not limited to, red and gray foxes, skunks and rodents which may be serving as reservoirs and/or vectors of any disease transmissible to human beings and/or domestic animals including but not limited to rabies, leptospirosis, salmonellosis and Rocky Mountain spotted fever. Such control programs may include but shall not be limited to hunting, trapping, vaccination and use of poisons. Technical and operational assistance for such programs shall be made available by the *cabinet* [~~state department~~] for human resources, the [~~state~~] department of fish and wildlife resources, and the [~~state~~] department agriculture. A control program established under authority of this section may be conducted by the individual or joint action of the referred-to state agencies, the local health department or individual property owners designated as agents of said *cabinets and* departments. In the event poisonous baits are used to control an outbreak of rabies in wildlife, such programs shall be under the direction of the *cabinet* [~~state department~~] for human resources. All pet animals in the area shall be quarantined for the duration of the program by action of the local board of health. Such programs shall be regulated to provide specific identification of bait station locations, daily check of each bait station, and positive pickup and destruction of all unconsumed baits at the end of the program.

(2) No liability shall be imposed upon any state agency or local agency or any employe or agent thereof for any injury occurring to domesticated animals, individuals or property in carrying out programs in good faith authorized by this section, but all persons and agencies shall be liable to the extent otherwise provided by law for ordinary and gross negligence.

Section 48. KRS 68.990 is amended to read as follows:

(1) Any outgoing county treasurer who fails for ten (10) days to comply with any of the provisions of KRS 68.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(2) The fiscal court and each member thereof that fails or refuses to comply with any of the provisions of KRS 68.080 shall be fined fifty dollars ($50) for each offense.

(3) Any county officer or member of a fiscal court who violates any of the provisions of KRS 68.110(3) shall be fined not less than one hundred (100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both.

(4) The fiscal court and each member thereof that fails or refuses to implement a system of uniform accounts as prescribed by the finance and administration cabinet pursuant to KRS 68.210 shall be fined one hundred dollars ($100) for each offense.

(5) Any local government official who fails to submit an annual financial report requested by the finance and administration cabinet pursuant to KRS 68.210 shall be fined one hundred dollars ($100) for each offense.

(6) Any county or state officer who knowingly violates any of the provisions of KRS 68.250(4), 68.270, 68.280, 68.310, or 68.320 shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his office declared vacant, and may also be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both.

(7) Any county officer who wilfully violates any of the provisions of KRS 68.010, 68.020*(4)*[~~(3)~~], 68.220 to 68.260, 68.290, 68.300 or 68.360 shall be fined not less than fifty (50) nor more than two hundred dollars ($200).

(8) Any person, including a corporation, who wilfully fails to prepare or file a timely return, account, or license application described in KRS 68.185, or who wilfully prepares or files a false or inaccurate return, account, or license application shall be fined not more than one hundred dollars ($100).

Section 49. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county. The term shall not, however, include persons engaged as independent contractors,

seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year*; in which case*[~~,~~] the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; and

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the

system.

Section 50. KRS 81.010 is amended to read as follows:

Cities are classified as follows:

(1) First class:
    Louisville, Jefferson County
(2) Second class:
    Ashland, Boyd County
    Bowling Green, Warren County
    Covington, Kenton County
    Frankfort, Franklin County
    Lexington, Fayette County
    Newport, Campbell County
    Owensboro, Daviess County
    Paducah, McCracken County
(3) Third class:
    Campbellsville, Taylor County
    Corbin, Whitley and Knox Counties
    Danville, Boyle County
    Erlanger, Kenton County
    Flatwoods, Greenup County
    Florence, Boone County
    Glasgow, Barren County
    Hazard, Perry County
    Henderson, Henderson County
    Hopkinsville, Christian County
    Mayfield, Graves County
    Maysville, Mason County
    Middlesboro, Bell County
    Murray, Calloway County
    Paris, Bourbon County
    Richmond, Madison County
    Somerset, Pulaski County
    Winchester, Clark County
(4) Fourth class:
    Augusta, Bracken County
    Barbourville, Knox County
    Bardstown, Nelson County
    Beaver Dam, Ohio County
    Bellevue, Campbell County
    Benton, Marshall County
    Berea, Madison County
    Calvert City, Marshall County
    Carlisle, Nicholas County
    Carrollton, Carroll County
    Catlettsburg, Boyd County
    Central City, Muhlenberg County
    Columbia, Adair County
    Cumberland, Harlan County
    Cynthiana, Harrison County
    Dawson Springs, Hopkins County
    Dayton, Campbell County
    Douglass Hills, Jefferson County
    Earlington, Hopkins County
    Edgewood, Kenton County
    Elizabethtown, Hardin County
    Elkhorn City, Pike County
    Elkton, Todd County
    Elsmere, Kenton County
    Eminence, Henry County
    Falmouth, Pendleton County
    Flemingsburg, Fleming County
    Fort Mitchell, Kenton County

Fort Thomas, Campbell County
Fort Wright, Kenton County
Franklin, Simpson County
Fulton, Fulton County
Georgetown, Scott County
Grayson, Carter County
Greenville, Muhlenberg County
Harlan, Harlan County
Harrodsburg, Mercer County
Hickman, Fulton County
Hillview, Bullitt County
Hodgenville, Larue County
Irvine, Estill County
Jackson, Breathitt County
Jeffersontown, Jefferson County
Jenkins, Letcher County
La Grange, Oldham County
Lawrenceburg, Anderson County
Lebanon, Marion County
Leitchfield, Grayson County
London, Laurel County
Ludlow, Kenton County
Lyndon, Jefferson County
Madisonville, Hopkins County
Manchester, Clay County
Marion, Crittenden County
Martin, Floyd County
Middletown, Jefferson County
Monticello, Wayne County
Morehead, Rowan County
Morganfield, Union County
Mount Sterling, Montgomery County
Mount Washington, Bullitt County
Nicholasville, Jessamine County
Olive Hill, Carter County
Owingsville, Bath County
Paintsville, Johnson County
Park Hills, Kenton County
Pikeville, Pike County
Pineville, Bell County
Prestonsburg, Floyd County
Princeton, Caldwell County
Providence, Webster County
Radcliff, Hardin County
Russell, Greenup County
Russellville, Logan County
Saint Regis Park, Jefferson County
Salyersville, Magoffin County
Scottsville, Allen County
Shelbyville, Shelby County
Shepherdsville, Bullitt County
Shively, Jefferson County
Southgate, Campbell County
Springfield, Washington County
St. Matthews, Jefferson County
Stanton, Powell County
Sturgis, Union County
Taylor Mill, Kenton County
Villa Hills, Kenton County
Vanceburg, Lewis County
Versailles, Woodford County
Vine Grove, Hardin County

Williamsburg, Whitley County
Wilmore, Jessamine County
(5) Fifth class:
Adairville, Logan County
Albany, Clinton County
Alexandria, Campbell County
Anchorage, Jefferson County
Auburn, Logan County
Audubon Park, Jefferson County
Bardwell, Carlisle County
Beattyville, Lee County
Beechwood Village, Jefferson County
Benham, Harlan County
Bloomfield, Nelson County
Brandenburg, Meade County
Bromley, Kenton County
Brooksville, Bracken County
Brownsville, Edmonson County
Burgin, Mercer County
Burkesville, Cumberland County
Burnside, Pulaski County
Butler, Pendleton County
Cadiz, Trigg County
Calhoun, McLean County
Campbellsburg, Henry County
Cave City, Barren County
Clay, Webster County
Clay City, Powell County
Clinton, Hickman County
Cloverport, Breckinridge County
Cold Spring, Campbell County
Columbus, Hickman County
Corydon, Henderson County
Crescent Springs, Kenton County
Crestview Hills, Kenton County
Crofton, Christian County
Devondale, Jefferson County
Drakesboro, Muhlenberg County
Dry Ridge, Grant County
Eddyville, Lyon County
Edmonton, Metcalfe County
Evarts, Harlan County
Ferguson, Pulaski County
Fleming-Neon, Letcher County
Fredonia, Caldwell County
Grand River, Livingston County
Greensburg, Green County
Greenup, Greenup County
Guthrie, Todd County
Hardin, Marshall County
Hardinsburg, Breckinridge County
Hartford, Ohio County
Hawesville, Hancock County
[~~Hellier, Pike County~~]
Highland Heights, Campbell County
Hindman, Knott County
Horse Cave, Hart County
Hustonville, Lincoln County
Independence, Kenton County
Irvington, Breckinridge County
Jamestown, Russell County
Junction City, Boyle County

Kuttawa, Lyon County
La Center, Ballard County
Lakeside Park, Kenton County
Lancaster, Garrard County
Lebanon Junction, Bullitt County
Leitchfield, Grayson County
Lewisburg, Logan County
Lewisport, Hancock County
Liberty, Casey County
Livermore, McLean County
Louisa, Lawrence County
Loyall, Harlan County
Lynch, Harlan County
Lynnview, Jefferson County
McKee, Jackson County
Meadowvale, Jefferson County
Midway, Woodford County
Millersburg, Bourbon County
Minor Lane Heights, Jefferson County
Morgantown, Butler County
Morton's Gap, Hopkins County
Mt. Olivet, Robertson County
Mt. Vernon, Rockcastle County
Muldraugh, Meade County
Munfordville, Hart County
Neon, Letcher County
North Middletown, Bourbon County
Northfield, Jefferson County
Nortonville, Hopkins County
Oak Grove, Christian County
Owenton, Owen County
Perryville, Boyle County
Pewee Valley, Oldham County
Plantation, Jefferson County
Prospect, Jefferson County
Raceland, Greenup County
Ravenna, Estill County
Rolling Hills, Jefferson County
Russell Springs, Russell County
Sandy Hook, Elliott County
Sebree, Webster County
Silver Grove, Campbell County
Stanford, Lincoln County
Tompkinsville, Monroe County
Uniontown, Union County
Walton, Boone County
Warsaw, Gallatin County
Washington, Mason County
West Buechel, Jefferson County
West Liberty, Morgan County
West Point, Hardin County
Whitesburg, Letcher County
Wickliffe, Ballard County
Wilder, Campbell County
Williamstown, Grant County
Windy Hills, Jefferson County
Woodlawn Park, Jefferson County
Worthington, Greenup County

(6) All other incorporated cities belong to the sixth class.

Section 51. KRS 82.130 is amended to read as follows:

(1) In order to provide all or any part of municipal inducements a city may, by ordinance adopted and made effective as provided by law, incur indebtedness and issue in evidence thereof its general obligation

bonds, the last principal maturity of which shall be not later than the fortieth anniversary of the date of the bonds, for the payment of which when due, both principal and interest, the full faith, credit, resources and unlimited taxing power of the city shall irrevocably be pledged; but only subject to the city's limit of such indebtedness as prescribed by section 158 of the constitution, and only if authorized by the voters at an election held on a regular November election day according to section 157 of the constitution. The proceedings incident to calling and holding any such election shall be according to KRS *91A.090* [~~66.050, 66.060 or 66.070, as may be applicable to the class of city involved~~], but the time or times of newspaper advertising of any such election, and the newspaper wherein published shall be according to KRS Chapter 424.

(2) After any such election, the city shall by ordinance specify terms for the bonds which are not inconsistent with the provisions of KRS 82.105 to 82.180, including, but not by way of limitation, their denominations, whether the bonds shall be of term or serial maturities, and the amount which shall mature on any serial maturity date; whether the bonds, or any of them, shall be subject to redemption prior to stated maturities and upon what terms; the place or places of payment of principal and interest, which may be within the Commonwealth or outside thereof; whether interest shall be evidenced by annexed coupons; whether the bonds shall be registered or registrable as to principal or interest, or both, and any other details not contrary to law which, in the discretion of the city, may appear wise and expedient. The bonds shall be sold at not less than face amount upon sealed purchase bids which shall be publicly opened and considered. Bidders shall be required to stipulate in their bids one or more interest rates of their own choosing, and no rate shall be fixed in excess of six percent (6%) per annum.

Section 52. KRS 83.520 is amended to read as follows:

The legislative body of a city of the first class shall have the power to exercise all of the rights, privileges, powers, franchises, including the power to levy all taxes, not in conflict with the Constitution and so as to provide for the health, education, safety and welfare of the inhabitants of the city, to the same extent and with the same force and effect as if the general assembly had granted and delegated to the legislative body of the city all of the authority and powers that are within its powers to grant to a municipal corporation as if expressly enumerated herein. Nothing therein contained to the contrary, the provisions of KRS Chapters 65, 66, 76, 77, 79, 80, [~~89,~~] 91, 95, 96, 97, 98, 99, 103, 104, [~~105,~~] 106, 107, 108 and 109 shall be considered permissive rather than mandatory and the powers, rights and duties therein delineated may be modified or delegated by the legislative body to different departments and agencies of city government and any restrictions therein set forth shall not be considered abridging in any manner the complete grant of home rule set forth in this grant of power except no right heretofore vested by operation of statute shall in any way be affected.

Section 53. KRS 91.4882 is amended to read as follows:

(1) Any action brought pursuant to KRS *91.488* [~~91.4880~~] to 91.4885 shall constitute an action in rem and the pleadings therein shall consist of a petition and an answer or answers.

(2) An answer may be filed by any person or taxing authority owning or claiming any right, title or interest in or to any tax bill constituting a tax lien on the real estate described in the petition or by any person owning or claiming any right, title, or interest in or to, or lien upon, such real estate. An answer shall include the nature and amount of the interest and any defense or objection to the enforcement of the tax liens listed in the petitions, and may include the allegations usually incorporated by the appropriate pleadings.

(3) Any answers shall contain the caption and number of the case, and the count number or numbers, as set out in the petition, of the parcels of real estate concerned. Such answer must be filed with the circuit court clerk and a copy thereof served on the collector not later than fifty (50) days after the date of the first publication of the notice of enforcement.

(4) In the event of failure to answer within said fifty (50) day period, a default judgment may be taken on all parcels of real estate for which no answer has been filed.

Section 54. KRS 95.010 is amended to read as follows:

(1) As used in KRS 95.150 to 95.290 and in KRS 95.786 to 95.850, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employe by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means the officers, fire fighters and clerical or maintenance employes, including the chief of the fire department.

(d) "Member" means any person in the police or fire department, other than the chief or assistant chief of the department.

(e) "Police department" means the officers, policemen and clerical or maintenance employes, including the chief of police.

(f) "Police force" means the officers and policemen of the police department, other than the chief of police.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employe.

(h) "Salary" means any compensation received for services.

(i) "Suspension" means the separation of an employe from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(2) As used in KRS 95.440 to *95.630* [~~95.690~~], the following words and terms shall have the following meaning, unless the context requires otherwise:

(a) "Dismissal" means the discharge of an employe by the division or department head, civil service board, or other lawful authority.

(b) "Eligible list" means a list of names of persons who have been found qualified through suitable competitive examinations for positions or classes of positions.

(c) "Fire department" means and includes all officers, fire fighters, and clerical or maintenance employes of the fire department.

(d) "Police department" means and includes all officers, policemen, and clerical or maintenance employes of the police department.

(e) "Member" means any and all officers, fire fighters, policemen, clerical or maintenance employes in the police or fire department, except that as used in subsections (1) and (3) of KRS 95.440, and KRS 95.450, 95.460, 95.470, 95.550, 95.560, 95.565, 95.570 and 95.580 it shall not include the chief of police in a city of the second class operating under the commission form of government or in an urban-county government.

(f) "Police force" means and includes all officers and policemen in the police department.

(g) "Policeman" means a member of the police department below the rank of officer, other than a clerical or maintenance employe.

(h) "Fire fighter" means a member of the fire department below the rank of officer, other than a clerical or maintenance employe.

(i) "Salary" means any compensation received for services.

(j) "Suspension" means the separation of an employe from the service for a temporary or fixed period of time, by his appointing authority, as a disciplinary measure.

(k) "Pension fund" shall mean the moneys derived from the members of the police and fire departments' salary or salaries and appropriations by the legislative body, or any other means derived from whatever source by gift or otherwise to be used for the retirement of members of the police and fire departments after the prescribed number of years of service, and for the benefit of disabled members of police and fire departments, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of any member of the police or fire department within the scope of his employment.

(3) As used in KRS 95.761 to 95.785 the following words and terms shall have the following meaning:

(a) "Regular police department." For the purpose of KRS 95.761 to 95.785, a "regular police department" is defined as one (1) having a fixed headquarters, where police equipment is maintained and where a policeman or policemen are in constant and uninterrupted attendance to receive and answer police calls, and execute regular police patrol duties.

(b) "Regular fire department." For the purpose of KRS 95.761 to 95.785, a "regular fire department" is defined as one (1) having a fixed headquarters where firefighting apparatus and equipment are maintained, and where fire fighters are in constant and uninterrupted attendance to receive and answer fire alarms.

(c) "Legislative body." Wherever in KRS 95.761 to 95.785 the term "body" or "legislative body" is employed, it shall be construed to mean the legislative branch of the city government or urban-county government.

(d) "Commission." The word "commission" shall mean the board of civil service commissioners, as established under the terms of KRS 95.761 to 95.785.

(e) "Trustees." The word "trustees" shall mean the board of pension fund trustees, as established under the terms of KRS 95.761 to 95.785.

(f) "Pension fund." The term "pension fund" shall mean the moneys derived from the policeman or policemen and fire fighter or fire fighters salary or salaries, and appropriations by the legislative body, or any other sums derived from whatever source by gifts or otherwise to be used for the retirement of policeman or policemen and fire fighter or fire fighters after the prescribed number of years of service and for the benefit of disabled policeman or policemen and fire fighter or fire fighters, and for the benefit of surviving spouses and dependent children or dependent fathers or mothers in the case of death of a policeman or fire fighter within the scope of his employment, according to the terms of KRS 95.761 to 95.785.

Section 55. KRS 95.890 is amended to read as follows:

For the purposes of KRS 95.895 to 95.945, the following terms shall have the following meanings:

(1) "Beneficiary" shall mean a member, either active or retired, of a local government pension system which participates in the local government pension investment fund;

(2) "Board" shall mean the governing body of the local government pension investment fund, as provided for in KRS 95.905;

(3) "Fund" shall mean the local government pension investment fund, as created by KRS 95.895 to 95.945;

(4) "Qualified investment manager" shall mean a bank or trust company as defined and regulated in KRS Chapter 287, or an investment adviser as defined in KRS 292.310 and registered under KRS 292.330, or an investment adviser registered under the federal investment advisers act of 1940, or an insurance company certified pursuant to KRS 304.3-160;

(5) "Participant" shall mean a locally administered public pension system, created pursuant to KRS 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.851 to *95.884, 95.991* [~~95.885~~], 90.400, 90.410, 96.180, 79.080, or 70.580 to 70.598, which chooses to invest in and thereby become a member of the local government pension investment fund.

Section 56. KRS 99.440 is amended to read as follows:

Upon the approval by the council of the development plan, the agency shall proceed to carry out the redevelopment. In the event that a bond issue is to be submitted by the community to the voters for the purpose of providing funds to pay for the cost of the redevelopment project or any part thereof, the question of issuing bonds shall be submitted as required in KRS 66.040 *and 91A.090* [~~to 66.070~~], both inclusive.

Section 57. KRS 107.020 is amended to read as follows:

(1) The term "governing body," as used in this chapter, means and includes the legislative body of any city, whether the same be designated by applicable statutes as a general council, a common council, a city council, a board of trustees, a board of commissioners, or otherwise.

(2) The term "ordinance" means and includes any ordinance enacted in accordance with the general laws applicable to ordinances of the class of city in question, and the form of government thereof, and in accordance with the provisions of this chapter.

(3) The term "public way" means and includes streets, boulevards, avenues, roads, lanes, alleys, parkways, courts, terraces, and other courses of travel open to the general public by whatsoever name designated.

(4) The terms "improvement" and "project" mean and include

(a) The construction of public ways or the substantial reconstruction or widening thereof,

(b) The construction, installation or substantial reconstruction of sanitary, storm, or combined sewers and appurtenances,

(c) The construction, enlargement or substantial reconstruction of sewage treatment plants for rendering sewage less hazardous to public health, safety and general welfare,

(d) The construction, installation or substantial replacement of fire hydrants in cities of the third through sixth classes, necessary water mains and appurtenances in a city in a county containing a city of the first or second class, or

(e) Any combination of the same. Bonds for improvements defined in paragraphs (b), (c) and (d) of this subsection may be caused to mature as to principal in term or serial maturities not to exceed thirty (30) years from date of issue.

(5) The term "costs" as applied to any project undertaken under this chapter includes the cost of labor, materials, and equipment necessary to complete the project in a satisfactory manner, cost of land acquired, and every expense connected with the project, including preliminary and other surveys, inspections of the work, engineers' fees and costs, attorneys' fees, preparation of plans and specifications, publication of ordinances and notices, interest which will accrue on the bonds until the due date of the first annual improvement assessment levied in connection therewith, a sum equal to any discount in the sale of the bonds (if discount bids are authorized and permitted by the governing body), a reasonable allowance for unforeseen contingencies, the printing of bonds, and other costs of financing which may include the payment of a fee to a fiscal agent for advice and assistance in the preparation and marketing of the bonds. As applied to wastewater collection projects undertaken by metropolitan sewer districts "costs" also include:

(a) The cost of inspections of work as construction progresses,

(b) Interest which will accrue on the bonds until the due date of the first annual improvement assessment if a lump sum is not paid,

(c) Capitalized interest on the bonds for a period not to exceed three (3) years,

(d) All or any portion of the debt service reserve requirement, if determination is made to finance same from bond proceeds,

(e) Payment of attorneys' fees, underwriting and fiscal agency fees, trustees' fees, rating service fees if approved by the fiscal court, and

(f) Other costs of issuance of bonds.

(6) The term "assessed value basis" means the plan for the levying of annual improvement benefit assessments on the basis of the assessed values of the benefited properties, as authorized by this chapter. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "assessed value basis" means the plan for the levying of annual improvement benefit assessments upon benefited property for the

benefits conferred by the construction of projects on the basis of the ad valorem assessed values (land only) of the benefited property, whether the owners pay such levies in full or on an annual basis to amortize bonds. Identical annual improvement benefit assessments upon classified zones of benefited property may also be included in this plan where determination is made by order of a metropolitan sewer district, as provided in KRS 107.030, that benefits conferred by construction of a project are substantially equal and that the assessed value (land only) of all benefited property or designated zones thereof shall therefore be deemed equal in respect of a given wastewater collection project.

(7) The term "front-foot basis" refers to the plan for financing improvements by apportioning the cost among benefited properties upon the basis of the number of linear feet thereof abutting upon the improvement project, as otherwise provided by law.

(8) The terms "property to be benefited," "properties to be benefited," "benefited property" and "benefited properties" all mean and refer to the property or properties defined in KRS 107.140. As applied to wastewater collection projects undertaken by metropolitan sewer districts, "benefited property" and "property to be benefited" mean the property (land only) proposed to be benefited by construction of a wastewater collection project instituted by a metropolitan sewer district and against which lump sum or annual improvement benefit assessments are to be levied.

(9) "Construction" means the following services and facilities provided by a metropolitan sewer district:

(a) Preliminary planning to determine the economic and engineering feasibility of construction of wastewater collection projects, and any engineering, architectural, legal, fiscal, and economic investigations and studies necessary. Also included are all necessary surveys, designs, plans, working drawings, specifications, procedures, and other required actions incident to the construction of wastewater collection projects;

(b) The building, acquisition, installation, erection, alteration, remodeling, improvement, expansion, or extension of wastewater collection projects and any other physical devices reasonably associated with such projects;

(c) The provision of sewer collection services and facilities to benefited property although not directly financed by the issuance of bonds; and

(d) Inspection and supervision incident to the acquisition, construction, and installation of wastewater collection projects.

(10) "Debt service reserve requirement" means with respect to any particular issue of bonds for a wastewater collection project of a metropolitan sewer district, the maximum annual requirements for payment of principal of and interest on such bond issue funded either in whole or in part by application of bond proceeds or accrued by the levying of improvement benefit assessments as provided in KRS Chapters 76 and 107.

(11) "Metropolitan sewer district" means a joint metropolitan sewer district which has been duly created under KRS 76.005 to 76.210.

(12) "Order" means a formal and binding enactment of the board of a metropolitan sewer district entered in connection with the financing by such district of a wastewater collection project.

(13) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants.

(14) "Wastewater collection project" means treatment plants and all or part of any facilities and systems of a metropolitan sewer district used in the collection, holding, or transmission of wastewater from a benefited property to wastewater treatment plants or other similar facilities for final disposition. These terms shall include, without being limited to, sanitary sewage collection lines, intercepting sewers, outfall sewers, sewer laterals, power stations and pumping stations, and other equipment and their appurtenances necessary to enable the project to fulfill its function, including land acquisition, if required, whether such project facilities are provided by funds derived from issuance of bonds or otherwise provided by a district in any manner.

(15) "Classified zone" means any portion of any construction phase of a wastewater collection project designated by a metropolitan sewer district after a determination that all property located in such zone is benefited substantially *equal* [~~equally~~] by such construction.

Section 58. KRS 107.460 is amended to read as follows:

The board, subject to the approval required by KRS 66.210 and 66.220, may sell and deliver its general obligation bonds not to exceed in principal amount any limitation provided in section 158 of the Constitution, in such manner and at such times at public sale as it deems proper, provided that before such bonds may be issued, the board shall take the same actions required by KRS *91A.090* [~~66.050~~] to be taken by the legislative body of a city in the case of a city bond issue; and unless the constitutionally required vote on the question submitted as therein provided is in favor of incurring the indebtedness, the bonds shall not be issued. In complying with the requirements of KRS *91A.090* [~~66.050~~], "ordinance" shall mean "resolution," "city" shall mean "district," and the advertising requirements shall be those fixed by KRS 424.130.

Section 59. KRS 108.073 is repealed and reenacted as KRS 108.175 to read as follows:

(1) If the people in an unincorporated area desire to become part of an existing ambulance service district, a certified petition of a simple majority, or one hundred (100) or more qualified voters, whichever is less, within the unincorporated area, as set out in metes and bounds, within the county shall be filed with the fiscal court. The petition shall set out the metes and bounds of the unincorporated area desiring to become part of the existing ambulance district. The fiscal court shall adopt a resolution, submitting to the qualified voters within the unincorporated area, as set out in metes and bounds, the question as to whether they wish to become part of the existing emergency ambulance service district and impose a special ad valorem tax for the maintenance and operation of the district, not to exceed ten cents (10) on each one hundred dollars ($100) of the assessed valuation of all property in the district. A certified copy of the resolution of the fiscal court shall be filed with the county court clerk at least sixty (60) days prior to the next regular election and, thereupon, the clerk shall cause the question to be placed on the ballot.

(2) The question shall be, substantially, the following form: "Are you in favor of becoming a part of the (insert name of the existing emergency ambulance service district) which shall have the authority to impose a special ad valorem tax of (insert exact amount) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert name) emergency ambulance service district?"

(3) If a majority of those voting on the question in the unincorporated area, as set out in metes and bounds, favor becoming part of the existing ambulance service district, then it shall be so established, and shall be part of the taxing district within the meaning of Section 157 of the Constitution of Kentucky. The cost of the election shall be paid by the fiscal court.

Section 60. KRS 109.011 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky hereby finds, determines and declares, as follows:

(1) That an ever-increasing volume of solid waste within the Commonwealth is being generated as a result of increasing economic and commercial activity, continuing technological progress and changes in methods of manufacturing, packaging and marketing of consumer products, which results in additional solid wastes discarded by the users of such products;

(2) That the continued economic and population growth of the Commonwealth has required increased industrial and commercial expansion and has made necessary the demolition of obsolete structures, the construction of new structures, the provision of highways and other avenues of transportation and the construction and installation of public works which, together with pre-existing commercial, industrial and agricultural operations, have resulted in the generation of further volumes of solid wastes;

(3) That the handling of solid wastes has been primarily carried out through the dumping of such wastes on open soil and in landfills, which in some cases are inimical to the public health, safety and welfare;

(4) That by the enactment by the Congress of the United States of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended, the collection, sanitary disposal and recovery of solid wastes has been determined to be a matter of nationwide importance, recognizing that the management of solid wastes should continue to be primarily the function of state, regional and local agencies; and that pursuant to such federal law, the Commonwealth has taken and will take certain actions in respect to the planning and implementation of solid waste plans within the guidelines of time requirements set forth in such federal law;

(5) That as a result of the conditions described in the foregoing findings, problems of solid waste collection, management and treatment and resource recovery activities in connection therewith have become a matter of state-wide concern necessitating action by the general assembly to (a) enable responsible planning and management agencies to be created to define solid waste management requirements, with all of the foregoing subject to regulation by the natural resources and environmental protection cabinet, and (b) assist those units of government primarily responsible for the management of solid waste and the acquisition, financing and operation of facilities to dispose of same to fulfill their functions in a responsible and proper manner with primary emphasis on the regionalization of such functions; [~~and~~]

(6) That it is the intent of the general assembly of the Commonwealth of Kentucky that the primary responsibility for adequate solid waste collection, management, treatment, disposal and resource recovery shall rest with counties, or combinations of counties and waste management districts, subject to standards set by regulations promulgated by the natural resources and environmental protection cabinet and subject to approval by such cabinet of the implementation of solid waste collection, treatment, disposal, and resource recovery plans, all for the purpose of effectuating the safe and sanitary management, use and handling of solid waste, the protection of the health, welfare and safety of the citizens and inhabitants of the Commonwealth and for making the most efficient use of all resources for the benefit of the citizens and inhabitants of the Commonwealth;[~~.~~]

(7) That the general assembly recognizes that the generation of solid waste is inevitable, but that much of it is unnecessary and should be discouraged; however, where solid waste does exist, it should be considered to the extent possible as a valuable resource, and be made use of wherever and whenever desirable and economically justifiable; therefore, it shall be the policy of the Commonwealth to, above all things,

encourage resource conservation and preservation of our natural resources before such waste contributes in a needless fashion to the volumes of solid waste and litter produced by our society, but in dealing with existing solid waste, materials recovery from the solid waste stream is deemed to be the most environmentally sound alternative for handling waste*;*[~~.~~]

(8) It is not the intent of this chapter to prohibit or discourage the participation of the private sector in any aspect of solid waste management. Moreover, it is preferable for solid waste management functions to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in this chapter*;*[~~.~~]

(9) Notwithstanding any provision of KRS Chapters 82, 83 and 94, it is the intent of the general assembly that this chapter and KRS 67.083 (3)(o) provide counties with exclusive authority to develop a solid waste management system for solid waste generated within the geographical boundaries of the county, consistent with the provisions of this chapter and KRS Chapter 224. It is further the intent of the general assembly that cities be authorized to finance, own, and operate solid waste management systems with the consent of the county or by contract with the county, except that in the event a county fails to submit a plan for solid waste management pursuant to KRS 224.887 or fails to include in the plan provisions for solid waste management within the city, cities may proceed to develop solid waste management systems consistent with regulations promulgated by the department pursuant to KRS Chapter 224. Cities that develop solid waste management facilities pursuant to this section shall have all the powers and restrictions set forth for counties in KRS 109.041, *109.056, 109.059* [~~109.180, 109.250~~], and 109.062*;*[~~.~~]

(10) It is the intent of the general assembly that this chapter provide counties with three (3) alternative approaches to the development and implementation of solid waste management plans. With the approval of the cabinet, a single county may function as a solid waste management area as provided in KRS 109.072, or counties may elect to operate as a multi-county area in which they may agree to function pursuant to the terms of a contract as provided in KRS 109.082, or a county or counties may elect to operate as a waste management district pursuant to this chapter*; and*[~~.~~]

(11) It is the intent of the general assembly that waste management districts and solid waste management areas, which are formed and operated under this chapter, shall comply with the standards set by regulations promulgated by the cabinet pursuant to KRS Chapter 224.

Section 61. KRS 109.012 is amended to read as follows:

(1) "Board of directors" or "board" means the governing body of a solid waste management district.

(2) "City" means an existing city of any class.

(3) "County" means the governing body of a county, including urban county governments.

(4) "Cabinet" means the natural resources and environmental protection cabinet.

(5) "Long-term contract" means a contract of sufficient duration to assure the viability of a resource recovery facility to the extent that such viability depends upon solid waste supply.

(6) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body.

(7) "Resource recovery" means any reclamation of material or energy from waste.

(8) "Sanitary landfill" means a facility for the disposal of solid waste consistent with and pursuant to criteria published under Section 4004 of the Resource Conservation and Recovery Act of 1976, as amended, (P.L. 94-580).

(9) "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining waste, coal mining by-products, refuse and overburden), and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

(10) "Solid waste management" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a *cabinet* [~~departmentally~~] approved county or multi-county solid waste management plan *of the cabinet.*

(11) "Solid waste management area" or "area" means any county or group of counties so designated by the *cabinet* [~~department~~] by approval of the local solid waste management plan.

(12) "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise.

(13) "Waste management district" means any county or group of counties electing to form under the

provisions of KRS *109.115* [~~109.071~~] and operate in conformance with the provisions of this chapter and with Section 4006 of the Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580).

Section 62. KRS 109.062 is amended to read as follows:

Any county or waste management district which requires the mandatory use of any solid waste management facility or other facility pursuant to KRS *109.059* [~~109.250~~] may require the use of any collection system or mode by all persons within the geographical boundaries thereof.

Section 63. KRS 118.245 is amended to read as follows:

The candidate receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination. If two (2) or more persons are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons. [~~This section does not apply to presidential primaries.~~]

Section 64. KRS 118.345 is amended to read as follows:

(1) No candidate who has been defeated for the nomination for any office in a primary election shall have his name placed on voting machines in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election, except that if a vacancy occurs in the party nomination for which he was a candidate in the primary election his name may be placed on voting machines for the regular election as a candidate of that party if he has been duly made such party nominee after the vacancy occurs as provided in KRS 118.105.

(2) No person who was a candidate for nomination for any office in a primary election and who, before the succeeding regular election, is declared by the judgment of any court of competent jurisdiction to have violated, in the primary election, any provision of KRS chapter 121, or to be responsible for such violation by others, shall have his name placed on voting machines for any office to be voted for in the succeeding regular election.

[~~(3) This section does not apply to presidential preference primary candidates.~~]

Section 65. KRS 119.115 is amended to read as follows:

(1) Any unauthorized person found in possession of any key to a voting machine to be used or being used in any primary, general or special election shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500) and imprisoned in the county jail for not more than six (6) months.

(2) Any person who, during or before any primary, general or special election willfully tampers with or attempts to tamper with, disarrange, deface or impair in any manner whatsoever, injures or destroys any ballot label, or destroys any such voting machine while in use at an election or at any other time, or who shall, after such machine is locked and sealed in order to preserve the record of the vote, tamper with or *attempt* [~~attempts~~] to tamper with the record of the vote, or who aids or abets with intent to destroy or change the record of the vote shall be punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years.

(3) Any election official, or other person entrusted with the custody or control of any voting machine who, with intent to cause or permit any voting machine to fail to correctly register votes cast thereon, tampers with or disarranges such machine in any way, unlawfully opens such voting machine, prevents or attempts to prevent the correct operation of such voting machine or causes such voting machine to be used or consents to its being used for any election with knowledge of the fact that the machine is not in order, or not perfectly set and adjusted to correctly register all votes cast thereon, or removes, changes or mutilates any ballot label on a voting machine shall be punished by a fine of not more than ten thousand dollars ($10,000) and imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years.

Section 66. KRS 121.025 is amended to read as follows:

No corporation, and no officer or agent of a corporation on its behalf, shall contribute, either directly or indirectly, any money, service or other thing of value towards the nomination or election of any state, county, city or district officer, or pay, promise, loan or become [~~pecuniarily~~] liable in any way for any money or other valuable thing on behalf of any candidate for office at any election, primary or nominating convention held in this state. No attorney or other person shall accept employment and compensation from a corporation with the understanding or agreement, either direct or implied, that he will contribute to any such candidate, or on his behalf, any part or all of such compensation, towards the nomination or election of such candidate.

Section 67. KRS 121.045 is amended to read as follows:

No person other than a corporation, and no agent of such person on his behalf, shall contribute, either directly or indirectly, any money, service or other thing of value towards the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such person not common to the general public, or to supervise, regulate or control in any manner the affairs of such person, or to perform any duty in assessing the property of such person for taxation. No such person, and no agent of such person on his behalf, shall pay, promise, loan or become [~~pecuniarily~~] liable in any way for any money or other valuable thing on behalf of any candidate for any such office at any election, primary or nominating convention held in this state. No attorney or other person shall accept employment and compensation from any such person with the understanding or agreement, either direct or implied, that he will contribute to any candidate for any such office, or on his behalf, any part or all of such compensation, towards the nomination or election of such candidate.

Section 68. KRS 121.055 is amended to read as follows:

No candidate for nomination or election to any state, county, city or district office shall expend, pay, promise, loan or become [~~pecuniarily~~] liable in any way for money or other thing of value, either directly or indirectly, to any person in consideration of the vote or financial or moral support of that person. No such candidate shall promise, agree or make a contract with any person to vote for or support any particular individual, thing or measure, in consideration for the vote or the financial or moral support of that person in any election, primary or nominating convention, and no person shall require that any candidate make such a promise, agreement or contract.

Section 69. KRS 121.160 is amended to read as follows:

(1) Each candidate shall designate a campaign treasurer at the time and *at* [~~with~~] the office *with which* he files as a candidate on a duplicate form prescribed and furnished by the registry and until this requirement is met the candidate shall be listed as his own treasurer and accountable as such. The candidate may appoint himself or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's campaign treasurer and shall attach the original to the candidate's filing papers. The office with which the candidate files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds;

(b) Keep detailed and exact accounts of contributions in general and by name, address and occupation where the contribution exceeds one hundred dollars ($100);

(c) Make or authorize all expenditures on behalf of a candidate. Any expenditure in excess of fifty dollars ($50) shall disclose the name, address and occupation of every person or firm to whom made, and shall list the date and amount of such expenditure and keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 121.180(2)(a).

(3) A candidate may remove a campaign treasurer at any time.

(4) In case of the death, resignation or removal of a campaign treasurer the candidate shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the registry. The candidate shall be accountable as his own campaign treasurer if he fails to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate, but all reports must be made separately for each individual candidate.

(6) The candidate may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and must comply with the reporting provisions of KRS 121.015 and 121.100 to 121.200 and those adopted by the registry.

Section 70. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50.00) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of a candidate, campaign committee or political issues committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made, other than "independent expenditures," as defined in KRS 121.150(1). The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50.00), and the amount, date and purpose of each expenditure. Reports of all candidates and their campaign committee shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the calendar quarter just prior to the due date of the first thirty-two (32) day, pre-primary reports.

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures.

(c) All candidates and their campaign committees shall make reports on the twelfth day preceding the date of the election.

(d) All candidates and their campaign committees shall make reports within thirty (30) days after the election.

(e) Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.

(3) In making the preceding reports, *the total gross receipts from each of the following categories shall be listed;* proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials[~~, the total gross receipts from each category shall be listed~~]. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address and occupation and the amount purchased shall be reported to the registry. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(4) Each permanent committee shall make a full report, upon a prescribed form, to the registry of all money, loans or other things of value, received by it from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, other than "independent expenditures," as defined in KRS 121.150(1). This report shall be made to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates.

(5) If the final statement shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semi-annually thereafter on June 30 and December 31 until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note.

(6) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county clerk in the county in which the candidate resides at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(7) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, and has received no contributions nor made any expenditures, then his obligation to file the reports required by KRS 121.015 and 121.100 to 121.200 shall cease. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 121.015 and 121.100 to 121.200.

(8) A candidate is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate states in writing or on forms provided by the registry that:

(a) Within five (5) days after personally receiving any contributions, the candidate shall surrender possession of the entire contribution or contributions to the treasurer of his principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the political committee and shall not be cashed or redeemed by the candidate.

(b) The candidate shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate from making an expenditure from personal funds to his designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received.

(c) The waiver shall continue in effect as long as the candidate complies with the conditions under which it was granted.

(9) No candidate as defined in this section, nor any committee as defined in this section shall use or permit the use of contributions or funds solicited or received for such person to further the candidacy of such person for a different public office. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the

same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further the candidacy of such person shall, at the election of the candidate or committee, be returned pro rata to all contributors or be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, committee or an official may retain such funds to seek election to the same office.

Section 71. KRS 131.340 is amended to read as follows:

(1) The Kentucky board of tax appeals is hereby vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of any agency of state or county government affecting revenue and taxation.

(2) Any party, including the attorney general, on behalf of the Commonwealth, aggrieved by any ruling, order or determination of any state or county agency charged with the administration of any taxing or licensing measure, may prosecute an appeal to the board by filing a complaint or petition of appeal before the board within thirty (30) days from the receipt by such aggrieved party of the agency's ruling, order, or determination.

(3) In the event the department of revenue is aggrieved by the decision of any county board of *assessment appeals* [~~supervisors~~] on an assessment recommended by the department and prosecutes an appeal to the Kentucky board of tax appeals as authorized herein, the commissioner of revenue shall, within twenty (20) days, certify in writing to the Kentucky board of tax appeals the assessment recommended.

(4) The Kentucky board of tax appeals shall immediately forward copies of the certification to the parties to the appeal. Such assessed value shall be prima facie evidence of the value at which the property should be assessed.

Section 72. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the department of revenue.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference *between:*

(a) [~~in~~] The total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; *and*

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

		fraction thereof, over 10 acres.	
30 to 60	$2,200+	$40.00 per acre, or a 30 acres.	fraction thereof, over
60 to 100	$3,400+	$25.00 per acre, or a 60 acres.	fraction thereof, over
100 to 250	$4,400+	$10.00 per acre, or a 100 acres.	fraction thereof, over
Over 250	$5,900+	$5.00 per acre, or a 250 acres.	fraction thereof, over

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:
or a

		fraction thereof, over 5 acres, or whichever amount is greater.	
30 to 60	$3,000+	$50.00 per acre, or a 30 acres.	fraction thereof, over
60 to 100	$4,500+	$25.00 per acre, or a 60 acres.	fraction thereof, over
100 to 250	$5,500+	$10.00 per acre, or a 100 acres.	fraction thereof, over
Over 250	$7,000+	$5.00 per acre, or a 250 acres.	fraction thereof, over

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck *camper* [~~campers~~]: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

Section 73. KRS 132.290 is amended to read as follows:

(1) Any property which has not been listed for taxation, for any year in which it is taxable, by the time the board of *assessment appeals* [~~supervisors~~] completes its work for that year shall be deemed omitted property.

(2) All omitted property shall be assessed retroactively in the manner provided by law at any time within five (5) years from the date when it became omitted, but the lien thereby accruing on any such property, except real property, shall not prejudice the rights of bona fide purchasers acquired in the meantime.

(3) All omitted property voluntarily listed shall be subject to a penalty of ten percent (10%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(4) All omitted property not voluntarily listed shall be subject to a penalty of twenty percent (20%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(5) When the property is assessed retroactively by action prosecuted in the manner provided by KRS 132.330 and 132.340, an additional penalty of twenty percent (20%) of the amount of the original tax, interest and penalty shall be collected for the purpose provided in KRS 134.400 and paid into the state treasury. All other penalties and interest shall be distributed in the same manner as the tax.

Section 74. KRS 132.672 is amended to read as follows:

(1) The department of revenue is authorized to establish an account entitled the "mapping project

account'' which is a fund created within the restricted fund group set forth in KRS *45.305* [~~45.322(1)(e)~~]. The purpose of this account is to provide funds for the mapping project as set forth in KRS 132.670. This account shall not lapse.

(2) There is hereby authorized to be deposited into this account the balance of the money heretofore deposited in the ''Kentucky Wastewater Revolving Fund'' created pursuant to KRS 107.600, now repealed.

(3) The commissioner of revenue or any person duly authorized by him shall have the authority to withdraw from this account for the purpose set forth in subsection (1) of this section.

Section 75. KRS 136.980 is amended to read as follows:

If any tax imposed by KRS 136.330 to *136.410* [~~136.400~~], 299.530, 304.4-030 and 342.450, whether assessed by the department, or the taxpayer, or any installment or portion of any tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the department. If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one percent (1%) of the tax for each month the tax remains unpaid.

Section 76. KRS 136.985 is amended to read as follows:

If any taxpayer fails to make and file a return required by KRS 136.330 to *136.410* [~~136.400~~], 299.530, 304.4-030 and 342.450, on or before the due date of the return or the due date as extended by the department, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent (5%) of the tax found to be due by the department shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the tax.

Section 77. KRS 138.660 is amended to read as follows:

(1) Every motor carrier shall pay a tax at the rate levied in KRS 138.220 and computed on the average wholesale price as defined in KRS 138.210(10) on the amount of gasoline and at the same rate on the amount of special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1) *of this section*, on the amount of gasoline and special fuels used in operations on public highways of this state.

(3) (a) In addition to the tax imposed in subsections (1) and (2) of this section, every motor carrier shall pay the weight distance tax as set forth in this section on the amount of gasoline and special fuels in operations on the public highways of this state.

(b) The weight distance tax shall be computed as follows on the combined licensed weight of the motor vehicle and trailers or semitrailers as defined in KRS 138.665: The rate shall be *two and eighty-five hundredths* [~~2.85~~] cents *(.0285)* [~~(0.285)~~] per mile, for combined licensed weights in excess of fifty nine thousand nine hundred and ninety nine (59,999) pounds.

(4) The tax levied under subsections (1), (2) and (3) of this section shall be computed and paid as provided in KRS 138.690.

Section 78. KRS 141.012 is amended to read as follows:

Notwithstanding the provisions of paragraph *(c)* [~~(b)~~] of subsection (13) of KRS 141.010, any corporation engaging in business for the first time in this state and employing within this state a minimum permanent investment of $100,000 in real property owned or leased, which incurs a net operating loss during its first year of operations, may carry the loss forward to the next succeeding taxable year and deduct it from the net income for that year as determined under the provisions of this chapter.

Section 79. KRS 141.065 is amended to read as follows:

(1) For the purposes of this section, ''code'' or ''Internal Revenue Code'' means the Internal Revenue Code in effect as of December 31, 1981.

(2) There shall be allowed as a credit for any taxpayer against the tax imposed by this chapter for any taxable year, an amount equal to one hundred dollars ($100) for each person hired by the taxpayer, provided such person has been classified as unemployed by the bureau for social insurance of the cabinet for human resources, and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and further provided that such person has remained in the employ of the taxpayer for at least 180 consecutive days during the taxable year in which the taxpayer claims the credit.

(3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:

(a) A person for whom the taxpayer receives federally funded payments for on-the-job training; or

(b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of section 267(c) of the code; or

(c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or

(d) To any person who is a dependent of the taxpayer as described in code section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate *or* [~~of~~] trust.

(4) For purposes of this section, all employes of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employe qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by code section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code section 1563.

(5) For purposes of this section, all employes of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employe qualified thereunder be claimed more than once for any taxable year.

(6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by this chapter.

(7) In the case of an electing small business corporation, the amount of the credit determined under this section for any taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of the taxable year, and any person to whom such an amount is so apportioned shall be allowed, subject to code section 53, a credit under subsection (2) of this section for such amount.

(8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code section 53, a credit under subsection (2) of this section for such amount.

(9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

Section 80. KRS 146.090 is amended to read as follows:

(1) The secretary for natural resources and environmental protection, with the approval of the soil and water conservation commission shall divide the state into nine (9) soil and water conservation areas which shall contain as nearly *as practicable, an* equal number of soil and water conservation districts [~~as practicable~~];

(2) The soil and water conservation commission shall consist of nine (9) members, not more than five (5) of whom shall be of the same political party, to be appointed by the secretary for natural resources and environmental protection with the approval of the governor;

(3) One (1) member shall be appointed from each of the areas from a list of two (2) names submitted from each such area by the supervisors of the soil and water conservation districts that have their principal offices therein. All members shall be supervisors of soil and water conservation districts;

(4) The term of office of each such member shall be four (4) years; provided that, whenever a member of the commission ceases to hold the office of district supervisor by virtue of which he is serving on the commission, his term of office as a member of the commission shall be terminated. In the case of any vacancy other than the one (1) caused by the expiration of a term, the secretary for natural resources and environmental protection, with the approval of the governor, shall appoint the successor from a list of two (2) names submitted by the supervisors of the soil and water conservation area which was represented by the former member. The successor shall also be a supervisor of a soil and water conservation district;

(5) The members of the commission shall designate a chairman from among their members and may from time to time change such designation. The commission shall keep a record of its official actions. A majority of the commission shall constitute a quorum. The commission may call upon the attorney general for such legal services as it may require. It may delegate to its chairman, any of its members, the director of the division, or any officer, employe, or agent, such powers and duties as it deems proper. Members of the commission shall receive no compensation for their services, but shall be entitled to expenses, including traveling expenses, necessarily incurred in discharging their duties;

(6) The following persons are advisory members of the commission by virtue of their offices: the secretary for natural resources and environmental protection, the commissioner of agriculture, the director of the agricultural experiment station, the director of vocational education, and the state conservationist of the United States department of agriculture.

Section 81. KRS 148.300 is amended to read as follows:

(1) The state horse park management board shall have exclusive control of concessions, exhibitions,

shows, entertainments and attractions at any place on the state horse park grounds, and may *under* [~~in~~] the direction of the board operate any or all of such *activities* [~~purposes~~], by law.

(2) The board shall have a prior lien upon the property of any concessionaire, exhibitor or person, immediately upon its coming or being brought on the grounds to secure existing or future indebtedness.

(3) Any designated employe or agent of the state board may sell the property to satisfy the indebtedness after giving ten (10) days' notice to the owner or agent of the owner or, if notice cannot be given to the owner, after a notice is posted for ten (10) days in the office of the state board on the grounds, announcing that the property is to be sold. The state board through its designated agent, may bid *on* and buy [~~on~~] the property offered for sale for the use and benefit of the state horse park.

Section 82. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under such licenses and tags, subject to the other provisions of this chapter and subject to regulations adopted under this chapter, are as follows:

(1) Statewide resident sport fishing license which authorizes the holder thereof to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations hereinafter set forth and such additional limitations as the department may from time to time prescribe; this license does not authorize the holder to sell fish;

(2) A short term sport fishing license which may be issued only to a nonresident and which authorizes the holder thereof to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed regulations. This license does not authorize the holder to sell fish;

(3) A resident commercial fishing license and a nonresident commercial fishing license, which authorizes a holder thereof to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by regulation. Such license shall also authorize the holder thereof to sell rough fishes, other than those protected by regulation;

(4) An Ohio River sport fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to take fish from the Ohio River only by any method authorized under a statewide sport fishing license. This license does not authorize the holder to sell fish;

(5) An Ohio River commercial fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to exercise in the Ohio River only the same privileges that may be exercised under a commercial fishing license, as defined in subsection (3) *of this section*, provided that the holder of such license has first obtained a tag or tags for each piece of commercial fishing gear in possession including each seine, net, trap, and line;

(6) A commercial fishing gear tag must be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use including commercial seines, gill nets or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license or an Ohio River commercial fishing license;

(7) Live fish and bait dealer's *licenses* [~~license~~], resident and nonresident, which *authorize* [~~authorizes~~] the holder thereof to sell bait and live fish as may be prescribed by regulation;

(8) Musseling licenses, resident and nonresident, which authorize the holder thereof to take mussels for commercial purposes as may be prescribed by regulation;

(9) A statewide resident hunting license, which authorizes the holder thereof to take or pursue wild animals, wild birds, frogs and turtles with gun, bow and arrow, dog or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and regulations of the department;

(10) A junior statewide hunting license, which may be issued only to a resident of this state, before he has reached his or her sixteenth birthday, but which becomes void on his or her sixteenth birthday, and which authorizes the holder thereof to exercise all the privileges authorized by a statewide hunting license; provided that no junior hunting license shall be issued without the written permission of parent, guardian or person having custody of such person under 16 years of age;

(11) Trapping licenses, resident and nonresident, which authorize the holder thereof to take wild animals by trapping upon his own lands or upon the lands of another person, provided that the holder of such license shall have first obtained a written consent as provided in KRS 150.400 and 150.410;

(12) A taxidermist's license, which authorizes the holder thereof to engage in the business of preparing, stuffing and mounting the skins of wildlife;

(13) A commercial guide's license, which authorizes the holder thereof to guide hunting and fishing parties according to the provisions of the laws and regulations of the department;

(14) Fur buyer's licenses, resident and nonresident, which authorize the holder thereof to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for such license shall state the number of premises to be used and shall display at each a copy of same as furnished by the

department except that the commissioner may limit the number of copies furnished and may revoke license for violation;

(15) A fur processor's license, which may be issued only to a resident, a partnership, firm or corporation of this state and which authorizes the holder thereof to buy raw furs when in legal possession for processing, manufacture or retention in cold storage or for resale;

(16) *A* Nonresident sport fishing license which authorizes the holder thereof to perform any act authorized by a resident statewide sport fishing license. This license does not authorize the holder to sell fish;

(17) *A* Nonresident annual hunting license which authorizes the holder thereof to perform any act authorized by a resident statewide hunting license;

(18) A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license is good only for the preserve for which it was issued and shall continue legal only for one (1) year. These licenses shall be issued in ink by the preserve manager, and it becomes his responsibility to see that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, shall have the authority to establish and regulate hunting preserves, either private or commercial;

(19) A big game permit, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorizes the holder thereof to take or pursue deer, bear or wild turkey, in any designated open area of this state, during the open season and according to the provisions of the laws and regulations governing such hunting;

(20) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;

(21) A trout stamp, which may be established by regulation in accordance with KRS 150.225;

(22) A commercial waterfowl permit, which authorizes the holder thereof to establish and operate a commercial waterfowl hunting preserve.

Section 83. KRS 150.200 is amended to read as follows:

The commissioner shall cause to be delivered to each county clerk, not less than ten (10) days before January 1 of each year, unless otherwise provided, as many licenses, tags and forms as may be required, and charge each clerk for the number issued to him. On or before January 25 of each year each county clerk shall return to the department all unused licenses, stubs and unused tags which he has received for the preceding year. The licenses and tags shall specify the calendar year for which they are issued and all licenses, tags and permits authorized to be issued by this chapter, whether by the department or by a county clerk, shall expire on December 31 of that calendar year, except fur *buyer's* [~~buyers~~] license which shall expire July 1 each year.

Section 84. KRS 151.100 is amended to read as follows:

As used in KRS 151.100 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

(1) The word "authority" shall mean the water resources authority of Kentucky;

(2) The word *"cabinet"* [~~"department"~~] shall mean the [~~department for~~] natural resources and environmental protection *cabinet*;

(3) The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;

(4) The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;

(5) The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;

(6) The word "floodway" shall mean that area of a stream or watercourse necessary to carry off flood water as determined by the *secretary* [~~commissioner~~];

(7) The word "floodplain" shall mean the area in a watershed that is subject to inundation;

(8) The word "watershed" shall mean all of the area from which all drainage passes a given point downstream;

(9) The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;

(10) The word "water *resources* [~~resource~~] project" or "project" shall mean any construction, development, improvement or any other activity intended to conserve and develop the water resources of the Commonwealth;

(11) The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water;

(12) The word "dam" shall mean any artificial barrier, including appurtenant works, which does or

can impound or divert water, and which either *(a)*[~~(1)~~] is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the *cabinet* [~~department~~], or *(b)*[~~(2)~~] has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;

(13) The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(14) "Secretary" shall mean the secretary of the [~~department for~~] natural resources and environmental protection *cabinet*;

(15) "Authorized representative" shall mean an individual specifically authorized by the *secretary* [~~commissioner~~] to act in his behalf;

(16) The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;

(17) "Owner" shall mean any person who owns an interest in, controls, or operates a dam.

Section 85. KRS 151.170 is amended to read as follows:

(1) All permits issued under KRS 151.140 shall be specific in terms of quantity, time, place and rate of diversion, transfer or withdrawal of public water. Such permits represent a limited right of use and do not vest ownership nor an absolute right to withdraw or use the water.

(2) The *cabinet* [~~department~~] shall issue a permit to the applicant if an investigation by the *cabinet* [~~department~~] reveals that the quantity, time, place or rate of withdrawal of public water will not be detrimental to the public interests or rights of other public water users. No permit shall be denied to a responsible applicant who has established an amount of water for which he has a need for a useful purpose, provided the requested amount of water is available.

(3) A permit may be issued for an amount of water withdrawal less than that applied for, if found by the department to be in the best interests of the public or other water users.

(4) Permits for the withdrawal, transfer, or diversion of public water may be amended at any time upon application to the *cabinet* [~~department~~] by the withdrawer, or by the *cabinet* [~~department~~] when the reports indicate that the withdrawer is using *a* substantially [~~a~~] different amount than permitted.

Section 86. KRS 151.360 is amended to read as follows:

(1) In order to provide for the development of Kentucky's water resources to meet future demands for usable water, and to provide for the construction of water *resources* [~~resource~~] projects including but not limited to the construction of dams with surplus water storage capacity, reservoirs for municipal and industrial water supply, and other projects to assure the adequate supply of water which is essential to the continued municipal, industrial, recreational and agricultural growth of the Commonwealth, the authority is hereby authorized and empowered, to contract with the federal government for the inclusion of additional water supply storage space behind existing or proposed flood control or other projects: to construct, maintain, repair and operate water resources projects; to participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction, maintenance, repair or operation of any water *resources* [~~resource~~] project; to lease water *resources* [~~resource~~] projects to the *cabinet* [~~department~~] or other governmental agencies and political subdivisions of the Commonwealth; and to provide financial assistance through loans or otherwise for the development of water *resources* [~~resource~~] projects.

(2) The authority is hereby authorized and empowered to coordinate the programs of all state agencies in the conservation, development and wise use of public water.

(3) The authority is authorized and empowered to promote the beneficial and proper distribution of water throughout the Commonwealth.

Section 87. KRS 151.370 is amended to read as follows:

The authority is further authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate and regulate water *resources* [~~resource~~] projects at such locations within the Commonwealth as may be determined by the authority;

(2) To acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise or otherwise, the fee simple title to or any acceptable lesser interest in any lands, and by lease or other conveyance, contract for the right to use and occupy any lands selected in the discretion of the authority as constituting necessary, desirable or acceptable sites for water resources projects of the authority;

(3) To issue revenue bonds of the authority payable solely from the revenues, rentals, rates, charges and other funds, pledged for their payment, for the purpose of paying all or any part of the cost of any one or more projects, and to refund any of its bonds;

(4) To fix by contract, or to establish and revise from time to time and charge and collect revenues, rentals, rates and charges for the use of the services and facilities of projects;

(5) To combine for financing purposes any two (2) or more projects;

(6) To establish and enforce rules and regulations for the use of any project;

(7) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and

personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same;

(8) To make and enter into such agreements with the federal government, the Commonwealth or any of its agencies or political subdivisions and any other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(9) To employ such employes and agents as may be necessary in the judgment of the authority and to fix their compensation subject to KRS Chapter *18A*[~~18~~];

(10) To receive and accept from the Commonwealth and any federal agency, grants for or in the aid of construction or development of any water resources project, and to receive and accept aid or contributions from any source of either money, property, labor or any other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(11) To expend reasonable funds of the authority in the form of grants for research, scientific study or planning of the development of water resources throughout the Commonwealth;

(12) To adopt any rules or regulations necessary to accomplish the purposes of the authority;

(13) To do all acts and things necessary or convenient to carry out the powers expressly granted to the authority.

Section 88. KRS 151.560 is amended to read as follows:

(1) There is hereby created the flood control advisory commission, which shall be composed of fifteen (15) members as follows:

(a) The governor shall appoint six (6) members: two (2) state legislators, one (1) from the senate and one (1) from the house of representatives; two (2) mayors; and two (2) county judges/executive; and

(b) The legislative research commission shall appoint nine (9) members, one (1) from each of the following river basins: Big Sandy; Licking; Kentucky; Salt; Green; Ohio River Main Stem; Tennessee; Mississippi; and Upper Cumberland.

(2) Each member shall serve a four (4) year term, except the first commission members appointed by the legislative research commission who shall serve terms as follows:

(a) Three (3) members shall serve for terms of two (2) years from the date of appointment;

(b) Three (3) members shall serve for terms of three (3) years from the date of appointment; and

(c) Three (3) members shall serve for terms of four (4) years from the date of appointment.

(3) Commission members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) Any member who misses three (3) consecutive meetings of the commission shall be deemed to have vacated the office. The commission shall declare the office vacant and the office shall be filled as provided by subsection (3) of this section.

(5) Two (2) of the commission members shall be elected by the commission to serve on the water resources authority of Kentucky, which service shall cease with the expiration of the term of appointment on the commission, if not sooner.

(6) The commission shall annually elect one of its members as chairperson. The commission shall meet quarterly or more often if necessary. A quorum for the transaction of business shall be nine (9) members, and a majority of the members present at a meeting may take action on any matter legally before it.

(7) Members shall be paid their necessary expenses incurred in attending meetings and in the performance of their official duties.

(8) The commission shall employ an executive director, who shall be qualified on the basis of administrative ability in water *resources* [~~resource~~] management. The commission, on the advice of the executive director, shall employ additional staff, as required, who are knowledgeable in such areas as hydrology, geology, engineering, municipal planning, regional planning, economics, and secretarial science. The commission may engage, as needed, the professional services of individuals on a contractual basis.

(9) The commission shall be attached for administrative purposes to the office of the governor.

(10) The commission shall receive an annual appropriation from the general fund and shall prepare a line-item budget, which shall appear as a line item in the executive branch biennial budget recommendation and in the biennial joint budget resolution.

(11) The commission may receive private funds, federal grants, and discretionary funds from the [~~department for~~] natural resources and environmental protection *cabinet*.

(12) The commission shall issue rules and regulations as necessary to control internal procedures. The commission shall establish by regulation the boundary for each river basin referred to in subsection (1)(b) of this section.

Section 89. KRS 152A.100 is amended to read as follows:

The bureau of energy research and development shall execute a research program designed to develop new and more effective and environmentally acceptable uses for coal and improve existing uses for Kentucky's fossil fuels and other natural resources. The department of energy may enter into contractual relationships with the institute of *mining* [~~mines~~] and minerals research at the university of Kentucky and such other research organizations as deemed appropriate to carry out such research.

Section 90. KRS 156.253 is amended to read as follows:

(1) The superintendent of public instruction may enter into agreement to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the state board of education at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45.360[~~, KRS 45.530 to 45.545,~~] and [~~KRS~~] 45.700 to 45.720 when awarded on the basis of a detailed training plan approved by the superintendent of public instruction. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The superintendent of public instruction may approve authorization for the department of education to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employe of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 91. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private or parochial regular day school approved by the state board of education; or

(c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school [~~with a permit issued pursuant to KRS 158.310~~]; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is enrolled and in regular attendance in state approved private or parochial school programs for exceptional children; or

(f) Who is enrolled and in regular attendance in a state supported program for exceptional children.

(2) Before granting an exemption under paragraph (d) of subsection (1) of this section the state board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician, psychologist or psychiatrist, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exempt any such child from compulsory attendance. Any child who is excused from school attendance more than six (6) months must have two (2) signed statements from a combination of the following professional persons: a licensed physician, psychologist, psychiatrist, and health officer. Exemptions of all children under the provisions of subsection (1)(d) of this section must be reviewed annually with the evidence required being updated.

(3) For any such child who is excluded under the provisions of subsection (1)(d), home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the state board of education shall be provided.

Section 92. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the department of revenue is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the department of revenue, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on such basis as may be agreed upon by the boards of education and the tax collector. Such expenses shall be borne by the school districts on a basis proportionate to the revenue received by such districts.

(3) The following shall apply only when the department of revenue is acting as tax collector under the authority of KRS 160.627(2):

(a) When the department is requested to be the tax collector under KRS 160.627(2), the department shall estimate the costs of implementing the administration of each such tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the department this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the department.

(b) For each calendar quarter after payment of the start-up costs, and no less than thirty (30) days before the beginning of such quarter, the department of revenue shall inform the requesting school district of costs needed to collect the tax authorized by KRS 160.621 for that calendar quarter and the requesting school district shall remit the same to the department within thirty (30) days. If any such payments are in excess of the department's actual costs of administration, or if any interest is earned on such payments, such excess or interest will be credited to the costs for the following quarter. If any such payments are less than the department's actual costs of administration, the requesting school districts shall reimburse these additional costs within thirty (30) days of notification.

(c) All funds received by the department under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS *45.305* [~~45.322(1)(e)~~]. The use of these funds shall be restricted to paying the department for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The department is authorized to retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS *45.305* [~~45.322(1)(e)~~]. The sole purpose of this account is to authorize the department of revenue to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(2) and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(4) within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the department is acting as tax collector under the authority of KRS 160.627(2) the requesting school district is authorized to enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982 any school district which requests the department to collect taxes under the authority of KRS 160.627(2) is required to inform the department of this request not less than one hundred fifty (150) days prior to January 1.

(g) At no time will the department be required to collect taxes authorized in KRS 160.621 of an individual when the department is not pursuing collection of that individual's state income taxes. The department is not required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. In no event shall any individual's taxpayment be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the state auditor is the only party authorized to audit the department of revenue with respect to the performance of its duties under KRS 160.621.

Section 93. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 49, and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the state department of education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky vocational association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by resolution whether part-time employes of the petitioning association are to be included. The state shall make no contributions on account of such employes, either full-time or part-time. The association shall make the employer's contributions including any overmatch that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470(4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employe contributions pursuant to KRS 161.540*(3)*[~~(4)~~], or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employe contributions.

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members.

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent (3%) per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employe contributions as described in KRS 161.540*(3)*[~~(4)~~], plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs.

(20) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year, or for whom picked up employe contributions are currently being made or for whom such contributions were made in the next preceding fiscal year.

(21) "Regular teacher, supervisor, or administrator", when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 94. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the teachers' retirement system may receive credit for active service rendered in the armed forces of the United States subject to regulations established by the board of trustees. Such service may be credited only if discharge was other than dishonorable. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of such service may be credited but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) A member having twenty (20) years or more of active duty in the military service, and who is

qualified for regular federal retirement benefits based on such service, may not receive credit for any such service in the teachers' retirement system. This subsection shall apply to service presented for credit on July 1, 1975, and thereafter.

(3) A member receiving retirement credit for active duty in the armed services of the United States shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Such contributions shall not be picked up, as described in KRS 161.540*(3)*[~~(4)~~]. In purchasing retirement credit for active duty in the armed services the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting such service.

Section 95. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2)(a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year, subsequent to the latest out-of-state service, may present for credit, service rendered out-of-state, not to exceed eight (8) such years actually taught as a certified or licensed teacher, provided such member pays to the retirement system an amount equal to the current member contribution to the retirement system based on the first Kentucky salary of the member subsequent to the out-of-state service and in addition thereto interest at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. Such payments shall not be picked up as described in KRS 161.540*(3)*[~~(4)~~]. For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. Such credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661 except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the teachers' retirement system of the state of Kentucky may present such service for credit in the retirement system on the same basis as provided above for out-of-state service credit, however, no such service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by such public institution or governmental agency. Such service when added to service credited under subsection (2)(a) of this section shall not exceed a total of eight (8) years service credit.

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use such service for meeting the requirements of KRS 161.600(1)(b) by making an additional contribution to the state accumulation fund equal to the regular member contributions for each year so used. Such payments shall not be picked up as described in KRS 161.540*(3)*[~~(4)~~]. The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the teachers' retirement system for the first time, July 1, 1976, and thereafter, shall not receive credit for service defined in subsections (2)(a) and (2)(c) *of this section* [~~above~~] in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or eight (8) years, whichever is the lesser number.

Section 96. KRS 161.545 is amended to read as follows:

Members may make contributions and receive service credit for substitute, part-time or any service other than regular full time teaching as provided in the rules and regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in rules and regulations adopted by the board of trustees. Contributions permitted after August 1, 1982 shall be picked up pursuant to KRS 161.540*(3)*[~~(4)~~].

Section 97. KRS 161.560 is amended to read as follows:

Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period the agency shall forward all amounts so deducted to the teachers' retirement system. The retirement system shall charge the employing agency interest at an annual rate not to exceed twelve percent (12%) for deductions not remitted within the specified fifteen (15) days. Such payroll reports, contributions lists, and other data as may be required by regulation of the board of trustees shall be submitted. The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member. After August 1, 1982, employe contributions shall be picked up by the agency pursuant to KRS 161.540*(3)*[~~(4)~~].

Section 98. KRS 161.565 is amended to read as follows:

Notwithstanding any other provisions of *this chapter* [~~KRS Chapter 161~~], the contribution of university faculty members may be reduced by amounts up to two and two hundred fifteen thousandths percent (2 215/1000%) if amounts sufficient to replace the reduction are authorized and contributed to the teachers' retirement system by the board of regents of the employing university. After August 1, 1982, any contribution by a university faculty member shall be picked up by the employing university pursuant to KRS 161.540*(3)*[~~(4)~~].

Section 99. KRS 161.595 is amended to read as follows:

(1) Upon service retirement, a member of the teachers' retirement system may obtain credit for all or any part of the service otherwise creditable under the Kentucky employes' retirement system, the county employes' retirement system, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the teachers' retirement system by virtue of such additional service credit. Such payments shall not be picked up, as described in KRS 161.540*(3)*[~~(4)~~].

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

Section 100. KRS 161.705 is amended to read as follows:

Any member of the teachers' retirement system, or the employer of member, or both, may make voluntary contributions of four percent (4%) or more of the member's annual compensation to the retirement system for the benefit of the member. Such contributions shall not be picked up, as described in KRS 161.540*(3)*[~~(4)~~]. Such contributions shall be invested as provided in KRS 161.430. Separate member accounts shall be maintained for voluntary contributions under rules and regulations enacted by the board of trustees.

Section 101. KRS 163.500 is amended to read as follows:

"Hearing impaired" are persons who have hearing disorders, including deafness. They are people who cannot hear and understand[~~, clearly,~~] speech *clearly* through the ear alone, with or without hearing aids.

Section 102. KRS 164.520 is amended to read as follows:

The bond issued by the commissioners of the sinking fund to themselves as trustees for the *University* [~~Agricultural and Mechanical College~~] of Kentucky and Kentucky State University, bearing date July 1, 1897, for the sum of $165,000 and bearing interest at the rate of six percent (6%), payable semiannually, remains in force and constitutes a perpetual obligation of the Commonwealth, and the interest thereon is a perpetual charge upon the treasury. The finance and administration cabinet shall, on the first day of January and on the first day of July each year, draw its warrant on the state treasurer for the sum of $627.75 in favor of the treasurer of Kentucky State University, and its warrant on the state treasurer for the sum of $4,322.25 in favor of the treasurer of the University of Kentucky.

Section 103. KRS 164.892 is amended to read as follows:

(1) The board of trustees of the university may, at its election, establish a basic coverage compensation fund for the benefit and protection from liability of itself and its agents. Promptly after the board of trustees of said university has elected to establish a basic coverage compensation fund, the university shall pay to the state treasurer the sum of three hundred fifty thousand dollars ($350,000) in the manner and within the time specified in subsection (3) of this section.

(2) Upon receipt of the initial payment of eighty-seven thousand five hundred dollars ($87,500), the state treasurer shall create a separate account to be designated as the "basic coverage compensation fund, University of Louisville" and there shall be credited to said fund the initial payment of eighty-seven thousand five hundred dollars ($87,500), all income thereafter earned from the investment of said fund and all contributions thereafter made by the university to said fund. Unexpended and unencumbered balances in any fund created hereunder shall be carried forward and be available for expenditure in succeeding fiscal years notwithstanding the provisions of KRS *45.229* [~~45.230~~] or any other provision of the Kentucky Revised Statutes. No portion of said fund shall ever lapse to the general fund and income earned from the investment of funds standing to the credit of said account shall accrue and be credited thereto, notwithstanding the provisions of KRS 42.500 or any other provision of the Kentucky Revised Statutes. Upon termination of said fund for any reason, the balance therein shall revert to the university.

(3) The university shall make an initial payment of eighty-seven thousand five hundred dollars ($87,500) upon action by its board of trustees as described in KRS 164.895. Annual payments of eighty-seven thousand five hundred dollars ($87,500) shall be made thereafter until the university has paid a total of three hundred fifty thousand dollars ($350,000) into the "basic coverage compensation fund, University of Louisville," except that when the university commences the operation of a teaching hospital, the difference between the total of all annual payments made into the basic coverage compensation fund and the sum of three hundred fifty thousand dollars ($350,000) shall become due and payable.

(4) The funds held in any fund created under KRS 164.890 to 164.895 shall be expended solely in payment of claims and judgments for liability arising in favor of any patient from treatment performed or furnished, or treatment that should have been performed or furnished by the university or its agents. The

liabilities which said fund shall be created to discharge are all liabilities from acts or omissions to act which may have occurred since July 1, 1976 and which may occur in the future and which no entity other than the university and its agents is or will be obligated either by law or contract to pay and discharge.

(5) No settlement shall be made of any claim for personal injury or death to any claimant arising out of the furnishing or failure to furnish medical care by the university and its agents, until and unless the board of trustees of the university, or its duly *designated* [~~delegated~~] agent or body has first approved of such settlement. The board of trustees of the university shall also have the right to determine whether or not an appeal shall be taken from any judgment rendered against it or its agents, when such claim is founded upon or arises out of the furnishing or failure to furnish medical care. Provided, however, that if the payment of a judgment would involve expenditures from appropriations of general funds of the Commonwealth then such payment must also be approved by the secretary, or his delegate.

(6) Funds held in any account created hereunder may be disbursed by the secretary only upon the written certification of the university, or its duly designated agent, of the amount to be disbursed and the name of the person or persons to whom such funds shall be paid.

(7) In addition to the payments to said fund required to be made in subsection (3) *of this section* [~~above~~], annual contributions to said fund shall be made by the university in an amount which will be not less than one hundred fifty percent (150%) of the average amounts actually paid in each year on medical malpractice claims for the five (5) years next preceding the making of the annual contribution. Provided, however, that if the university and the secretary shall at any time in the future mutually determine, based on sound actuarial principles, that an annual contribution in a lesser amount will not impair the adequacy of the fund to satisfy existing and potential health care malpractice claims for a period of one (1) year, then an annual contribution in such lesser amount as may be determined may be made.

(8) The university shall be solely responsible for the investigation and servicing of all claims made against it arising out of medical malpractice and all costs, expenses, and fees incurred in the investigation, servicing and defense of all such claims shall be borne and paid by the university.

(9) Claims and judgments certified to be paid by the university shall be paid in the order received by the secretary. If the basic coverage compensation fund created by contribution from the university shall at any time fail to have sufficient funds to pay all such judgments, then they shall be paid out of the excess coverage fund upon certification by the secretary. Said excess coverage fund shall be expended only upon exhaustion of the basic coverage compensation fund and any liability insurance from any source whatsoever.

Section 104. KRS 171.384 is amended to read as follows:

(1) There is hereby established the Kentucky historic preservation review board, which shall aid and advise the heritage division in the selection of historic sites and all duties pursuant to public law *89-665* [~~89-669~~], as amended, and regulations issued pursuant thereto.

(2) The board shall be composed of eleven (11) members appointed by the governor; one (1) of whom shall be a professionally recognized historian; one (1) an architect; and one (1) an archaeologist. Each board member shall receive twenty-five dollars ($25) per diem and necessary expenses for performance of his duties.

Section 105. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.080 unless the context requires otherwise:

(1) "Manufacturer" means any person, partnership, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

(a) "Distributor" which means any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

(d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto.

(3) The term "motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company or lending institution which is subject to state or federal regulation as such, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employes of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as such employes.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of said manufacturer's new motor vehicles.

(5) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.

(6) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but does not mean a manufacturer or its affiliate leasing to its employes or to dealers.

(7) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

(8) "Motor vehicle auction dealer" means any person who offers, negotiates, or attempts to negotiate a sale, purchase, or exchange of a motor vehicle which may be lawfully kept or offered for sale by or at public auction or who sells same at auction.

(9) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, which is self propelled, not including farm tractors and other machines and tools used in the production, harvesting and care of farm products.

(10) "New motor vehicle" means a vehicle which is in the possession of the manufacturer, distributor, or wholesaler, or has been sold only to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of said make of new vehicle, and which is, in fact, new and on which the original title has not been issued from the franchised dealer.

(11) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(12) "Commission" means the motor vehicle dealer's licensing commission.

(13) "Commissioner" means the commissioner of vehicle regulation.

(14) "Department" means the department of vehicle regulation.

(15) "Licensor" means either the commission or the department or both.

(16) "Established place of business" means a permanent, enclosed commercial building located within this state easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land use regulatory ordinances.

(17) "Person" means a person, partnership, firm, corporation or association, trust, estate or other legal entity.

(18) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer which purports to fix the legal rights and liabilities of the parties to such an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product.

(19) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in *KRS 355.2-103(1)(b)* [~~Section 2-103(1)(b) of the Uniform Commercial Code~~].

(20) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(21) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(22) "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein, or of any franchise related thereto, as well as any option, subscription or other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of such motor vehicle or franchise.

Section 106. KRS 198B.060 is amended to read as follows:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with subsections *(8) and (10)* [~~(7) and (9)~~] of this section to enforce the uniform state building code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the uniform state building code, except that a building code adopted by a local government prior to March 28, 1978 may continue in effect until such time as the uniform state building code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than 20,000 square feet of floor area, and are not intended for educational, institutional or high hazard occupancy; or assembly, business or industrial occupancy in excess of one hundred (100) persons, except churches as stated above, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of such permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the uniform state building code. Such determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) through (12) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. Such petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal such denial directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) through (12) of KRS 198B.070. Should the local government be granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over such additional responsibility, but the local government shall collect any fees for functions it performs pursuant to

such additional responsibility.

(6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 - KRS 198B.090.

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8) Upon the effective date of the uniform state building code, no building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for such construction. The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the uniform state building code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of said building. The applicant for a building permit, by the act of applying for the permit, is deemed to have consented to inspection, by the local government or the department, of such building during construction and upon the completion of construction for the purpose of determining that such building is constructed in compliance with the uniform state building code. This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the board of housing, buildings and construction, shall not be performed in order to conduct such tests or inspections.

(9) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the uniform state building code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the uniform state building code, or assembled or installed in conformance with applicable instructions.

(10) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the uniform state building code.

(11) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section provided that:

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector.

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector.

(c) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector.

(e) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(12) If the department determines that an inspector is not enforcing the provisions of the Kentucky building codes, it shall require a hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector.

(13) If, after written notification from the department to the inspector of the corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies.

(14) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. Such fees shall be designed to fully cover the cost of the service performed but shall in no case exceed the cost of the service performed. Fees payable to the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 107. KRS 211.740 is amended to read as follows:

(1) There is hereby created within the cabinet for human resources a hemophilia advisory committee for the purpose of acting in an advisory capacity to the department for health services regarding the hemophilia treatment program. The committee shall consist of nine (9) members. The secretary of the cabinet

for human resources shall be an ex-officio member. The other eight (8) members of the committee shall be appointed by the governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that of those members initially appointed the terms shall be as follows: two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and two (2) for four (4) years. Appointments shall be made one (1) from a list of three (3) nominees submitted by the following organizations: the Kentuckiana Chapter of the National Hemophilia Foundation, the Kentucky Medical Association, the Kentucky *Pharmacists* [~~Pharmaceutical~~] Association, and the Kentucky Hospital Association. The other four (4) appointive members shall be citizens residing within the Commonwealth who are hemophiliacs, parents of hemophiliacs, or health care providers interested in hemophilia.

(2) Each appointive member of the committee shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The committee shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The committee shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

Section 108. KRS 216.560 is amended to read as follows:

(1) Where a licensee has failed to correct a type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that such deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) Where a licensee has failed to correct a type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that such deficiency continues beyond the date specified for correction.

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for and paid a fine for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from monies used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS *216B.990(3)* [~~216.990~~] shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in a trust and revolving fund, which is hereby created, and the balance of said fund shall lapse at the end of the fiscal year to the general fund.

Section 109. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of *this chapter* [~~Acts 1972 (1st Ex. Sess.), ch. 3~~], and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with *this chapter* [~~Acts 1972 (1st Ex. Sess.), ch. 3~~], or any rule or regulation which may be

promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. Such funds received by the cabinet shall be deposited in the state treasury to the account of the cabinet;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;

(14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, rule, regulation or plan specified in subsections (5) and (6) of KRS 224.045;

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of *this chapter* [~~Acts 1972 (1st Ex. Sess.), ch. 3~~], or the regulations promulgated pursuant thereto and requiring the adoption of such remedial measures as the cabinet may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or the establishment or construction and the operation or maintenance of waste disposal sites and facilities; and require that applications for such permits be accompanied by plans, specifications, and such other information as the cabinet deems necessary;

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of such exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the cabinet may prescribe any equipment, device or test and the methodologies and procedures for the use of such equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning such monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and such other information as the cabinet may require;

(24) Promulgate rules, regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste management which shall contain, but not be limited to, the provisions set forth in KRS *224.888* [~~109.031~~], and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain, but not be limited to, the following:

(a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;

(b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;

(c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of such activities as can be expected to continue for not less than twenty (20) years into the future;

(d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of such wastes;

The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;

(25) Perform such other and further acts as may be necessary to carry out the duties and responsibilities herein described; [~~and~~]

(26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards*; and*

(27) Promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet.

Section 110. KRS 224.085 is amended to read as follows:

(1) Appeals may be taken from all orders of the natural resources and environmental protection cabinet. Such appeals shall be taken within thirty (30) days from the rendition of such order to the Franklin Circuit Court. The party or parties affected by the order shall file in the circuit court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the circuit court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the circuit court and such record shall then become *official* and be considered by the circuit court on the review. After the case has been properly docketed in the circuit court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court, be permitted to intervene. Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and order of the cabinet.

(2) Appeals to the Court of Appeals from orders of the circuit court, shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 111. KRS 224.2207 is amended to read as follows:

(1) No person shall construct or operate a regional integrated waste treatment and disposal demonstration facility without having first obtained from the board a certificate of environmental safety and public necessity for the siting of a facility. A person desiring a certificate of environmental safety and public necessity shall submit an application to the board only after the secretary has declared the intent to issue a construction permit for a regional integrated waste treatment and disposal demonstration facility. A construction permit for a regional integrated waste treatment and disposal demonstration facility pursuant to KRS 224.866 shall not be issued before the certificate of environmental safety and public necessity has been obtained. Applications shall be submitted and processed and a certificate shall be issued in accordance with procedures established under regulations promulgated by the board pursuant to KRS 224.2205.

(2) In issuing a certificate of environmental safety and public necessity, the board shall consider the following factors:

(a) The social and economic impacts of the proposed facility on the affected community including changes in property values, community perception and other psychic costs;

(b) Costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(c) The relationship of the proposed facility to local planning and existing development; the relationship of the proposed facility to any state-owned commercial low level nuclear waste disposal site, to major transportation arteries and to existing state primary and secondary roads, and to the hydrology of the area;

(d) The location of the proposed facility in relationship to the existing industries in the Commonwealth that generate large volumes of hazardous waste and to the areas projected to be areas of generation of large volumes of hazardous waste based on known potential industrial locations within the Commonwealth, so as to minimize the transportation distance between the major generators of hazardous waste and the proposed facility. The cabinet shall provide the board with data concerning said existing and projected areas of hazardous waste generation in the Commonwealth;

(e) The impact of the proposed facility on public safety and provisions made to minimize the risk to public health and safety;

(f) The consistency of the proposed facility with the state's hazardous waste management needs and any state hazardous waste management plan established under KRS 224.033(24);

(g) The policies, findings and purposes contained in KRS 224.896.

(3) No certificate of environmental safety and public necessity shall be issued until the board has presented its findings at a meeting of the interim joint committee of the legislative research commission with jurisdiction in the area of hazardous waste management or if the general assembly is in session, at a joint meeting of the house and senate standing committees with jurisdiction in the area of hazardous waste

management. The board shall notify the chairperson or chairpersons of said appropriate joint committees in writing of its intent to issue a certificate of environmental safety and public necessity. The chairperson or chairpersons shall call a meeting of said joint committee within thirty (30) days of the date of receipt of such notification by the board to hear the findings of the board.

(4) All other provisions of state or local law or ordinance to the contrary notwithstanding, the issuance of a certificate of environmental safety and public necessity by the board and the issuance of applicable permits by the cabinet shall constitute the exclusive governmental approval or land use determination required for the siting, location or use of a regional integrated waste treatment and disposal demonstration facility. Any facility holding a certificate of environmental safety and public necessity shall be exempt from regulation under KRS 67.083 and KRS Chapter 100. The board and the cabinet may set standards for monitoring, operations, maintenance, record keeping, closure, post-closure, and liability coverage for the release or escape of waste into the environment that are more stringent than requirements for other hazardous waste facilities in order to evaluate the integration and operation of the technologies in use at the site, to assure proper maintenance, and to protect public health and the environment.

(5) Appeals may be taken from the issuance or denial of certificates of environmental safety and public necessity. Such appeals shall be taken to the Franklin circuit court within thirty (30) days from the board's decision of issuance or denial. The party or parties affected by the issuance or denial of the certificate shall file in the circuit court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The board shall be named respondent, and service shall be had on the chairperson of the board. Summons shall issue upon the petition directing the board to send its entire record, properly bound, to the clerk of the circuit court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the circuit court and such record shall then become *official* and be considered by the circuit court on the review. After the case has been properly docketed in the circuit court, any party directly affected by the issues on appeal may, upon notice to the parties and upon proper showing and in the discretion of the court, be permitted to intervene. Upon hearing of the appeal, the findings of the board shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and decision of the board.

Section 112. KRS 242.020 is amended to read as follows:

(1) A petition for an election shall be signed by a number of constitutionally qualified voters of the territory to be affected, equal to twenty-five percent (25%) of the votes cast in the territory at the last preceding general election. The petition may consist of one or more separate units, and shall be filed with the county clerk.

(2) The petition for election, in addition to the name of the voter, shall state also his post office address and the correct date upon which his name was signed.

(3) No signer may withdraw his name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for election without his authority, he may appear before the county judge/executive before the election is ordered and upon proof that his name was placed on the petition without his authority, his name may be eliminated by an order of the *county judge/executive* [~~court~~]. When his name has been eliminated, he shall not be counted as a petitioner.

(4) After a petition for election has been filed, the county judge/executive shall make an order on the order book of the court directing an election to be held in that territory.

Section 113. KRS 242.1296 is amended to read as follows:

If the sense of the people in an election held pursuant to the provisions of KRS *242.1292* [~~242.1293~~] and 242.1294 is "yes", no other local option election shall be held in that county or city, unless an additional election is first held pursuant to the provisions of KRS *242.1292* [~~242.1293~~] and 242.1294 in which the sense of the people is "no".

Section 114. KRS 271A.240 is amended to read as follows:

(1) In addition to any other liabilities imposed by law upon directors of a corporation:

(a) Directors of a corporation who vote for or assent to the declaration of any dividend or other distribution of the assets of a corporation to its shareholders contrary to the provisions of this chapter or contrary to any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the corporation for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this chapter or the restrictions in the articles of incorporation;

(b) Directors of a corporation who vote for, or assent to, the purchase of its own shares contrary to the provisions of this chapter shall be jointly and severally liable to the corporation for the amount of consideration paid for such shares which is in excess of the maximum amount which could have been paid therefor without a violation of the provisions of this chapter;

(c) The directors of a corporation who vote for or assent to any distribution of assets of a corporation to its shareholders during the liquidation of the corporation without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the corporation shall be jointly and severally liable to the corporation for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the corporation are not thereafter paid and discharged.

(2) A director of a corporation who is present at a meeting of its board of directors at which action described in this section is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by certified mail, return receipt requested, to the secretary of the corporation within sixty (60) days after the adjournment of the meeting but in no event later than three (3) days after he has learned of such action. Such right to dissent shall not apply to a director who voted in favor of such action.

(3) A director shall not be liable under paragraph (a), (b) or (c) of subsection (1) of this section if he relied and acted in good faith upon financial statements of the corporation represented to him to be correct by the president or the officer of such corporation having charge of its books of account, or stated in a written report by any independent public or certified public accountant or firm of such accountants [~~fairly~~] to *fairly* reflect the financial condition of such corporation, nor shall he be so liable if in good faith in determining the amount available for any such dividend or distribution he considered the assets to be of their book value.

(4) Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a corporation and who shall be held liable thereon shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of this chapter, in proportion to the amounts received by them.

(5) Any director against whom a claim shall be asserted under or pursuant to this section shall be entitled to contribution from the other directors who voted for or assented to the action upon which the claim is asserted.

Section 115. KRS 272.101 is amended to read as follows:

In enacting KRS 272.011, 272.101 to 272.341, it is the intention of the general assembly to promote, foster and encourage the intelligent and orderly production and marketing of agricultural products through cooperation,[~~; and~~] to eliminate speculation and waste,[~~; and~~] to make the distribution of agricultural products between producer and consumer as direct as can be efficiently done, *and*[~~;~~] to stabilize the marketing of agricultural products and to provide for the organization and incorporation of agricultural cooperative associations.

Section 116. KRS 272.111 is amended to read as follows:

An association may be organized to engage in any activity in connection with the production, harvesting, marketing, selling, preserving, drying, processing, canning, packing, grading, storing, handling, shipping or utilization of the agricultural products owned, leased, handled or marketed by its members and other farmers, [~~or~~] with the manufacture or marketing of the by-products thereof,[~~; or~~] in connection with the manufacturing, selling, or supplying to its members and other farmers of machinery, equipment or supplies,[~~; or~~] in the financing of the above-enumerated activities,[~~; or~~] in performing or furnishing services of economic or educational nature, on a cooperative basis for those engaged in agriculture,[~~;~~] or in any one or more of the activities specified herein.

Section 117. KRS 272.131 is amended to read as follows:

(1) The articles of incorporation of each association shall state:

(a)[~~(1)~~] The name of the association*;*[~~.~~]

(b)[~~(2)~~] The purposes for which it is formed*;*[~~.~~]

(c)[~~(3)~~] The place where its principal business will be transacted*;*[~~.~~]

(d)[~~(4)~~] The period of duration, which may be perpetual. When the articles of incorporation fail to state the period of duration, it shall be considered perpetual. Any association heretofore or hereafter organized for a period less than perpetual, may, by amendment to its articles of incorporation, extend the period of its duration for a specified period or perpetually*;*[~~.~~]

(e)[~~(5)~~] The names and addresses (not less than five (5)) of those who are to serve as directors for the first term or until the election of their successors*;*[~~.~~]

(f)[~~(6)~~] If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rules applicable to all members by which the property rights and interests, respectively, of each member shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members in accordance with the general rules. These provisions of the articles of incorporation shall not be altered, amended, or repealed except by the affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by members present in person, or by proxy (if permitted by the bylaws), and voting thereon at any regular or special meeting*; and*[~~.~~]

(g)[~~(7)~~] If organized with capital stock, the authorized amount of the stock and the number of shares into which it is divided and the par value thereof. Capital stock may be divided into preferred and common stock. The articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and the privileges granted to each. No specific amount of the capital stock authorized

is required to be subscribed before the association may transact business with other than its members; the board may determine the amount of capital stock to be issued as the business of the association may justify or demand, from time to time, within the amount of the total authorization.

(2)[~~(8)~~] The articles of incorporation may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate with respect to its members, officers, or directors, and any other provisions relating to its affairs; but nothing set forth in this section shall be construed as limiting any of the rights or powers otherwise given to such associations.

(3)[~~(9)~~] The articles of incorporation must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the *laws* [~~law~~] of this state to take and certify acknowledgments of deeds and conveyances; and shall be filed and recorded in accordance with the statute relating to corporations generally; and when so filed, the articles of incorporation, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein, and of the due incorporation of the association. A copy of the articles of incorporation, indorsed by the secretary of state with the fact and time of recording in his office, shall be filed with the dean of the college of agriculture of the University of Kentucky and with the commissioner *of the*[~~,~~] department of agriculture.

Section 118. KRS 272.141 is amended to read as follows:

(1) Amendments to the articles of incorporation shall be made in the following manner: The board shall by an affirmative vote of not less than two-thirds (2/3) of its members, present and voting at any regular or special meeting, adopt a resolution approving the proposed amendment and directing that the proposed amendment be submitted to a vote of the association members at any annual or special meeting duly called. Written or printed notice setting forth the proposed amendment, or a summary of the changes to be effected thereby, shall be given to each member of the association entitled to vote at any such meeting, within the time and in the manner provided in KRS 272.161. The proposed amendment, or amendments, shall be adopted by the affirmative vote of not less than a majority of the votes entitled to be cast by the members present in person, or by proxy (if permitted by the bylaws), and voting at any such meeting.

(2) Notwithstanding the provisions of subsection (1) of this section, an amendment whose only effect is to extend an association's period of duration may be adopted by the affirmative vote of not less than two-thirds (2/3) of the directors present and voting at any duly called board meeting, and shall become effective when signed and acknowledged by the chairman, or other presiding officer, of the board and filed and recorded pursuant to KRS 272.131.

(3) The articles of amendment shall set forth:

(a) The name of the association;

(b) The amendment adopted;

(c) A statement setting forth the date of the meeting of the board at which the amendment[~~,~~] or amendments *were*[~~, was~~] approved; that the meeting was duly called and that a quorum was present; and that a resolution approving the proposed amendment, or amendments, received an affirmative vote of not less than two-thirds (2/3) of the members of the board present and voting at such meeting;

(d) A statement setting forth the date of the meeting of the members of the association at which the amendment was adopted; that the meeting was duly called and that a quorum was present; and that such amendment received an affirmative vote of not less than a majority of the votes entitled to be cast by members present in person, or by proxy (if permitted by the bylaws), and voting at such meeting.[~~;~~]

(4)[~~(e)~~] For the recording of articles of incorporation or amendments thereto by the secretary of state and county clerk, and for the issuance of a certificate of incorporation or certificate of amendment by the secretary of state, an association shall pay the same fees as are provided for such services in the statutes relating to corporations generally.

(5)[~~(4)~~] A copy of the articles of amendment indorsed by the secretary of state with the fact and time of recording in his office, shall be filed with the dean of the college of agriculture of the University of Kentucky, and with the commissioner *of the*[~~,~~] department of agriculture.

Section 119. KRS 272.161 is amended to read as follows:

An association may provide in its bylaws for one or more regular meetings each year. Special meetings of the members of the association may be called by the board; it shall be the board's duty to call such meetings when ten percent (10%) of the members of the association file with the association secretary a petition demanding a special meeting and specifying the business to be considered at such meeting. Regular or special meetings may be held within or without the state. Notice of all meetings, except as otherwise provided by law or in the articles of incorporation or bylaws, shall be mailed to each member at least ten (10) days prior to the meeting, and in case of special meetings the notice shall state the purposes for which it is called, but the bylaws may provide that all notices, except of proposed amendments to the articles of incorporation, may be given by publication in a periodical or newsletter published by or for the association *of*[~~, to~~] which substantially all its members are recipients, or in newspapers whose combined circulation is general in the territory in which the association operates.

Section 120. KRS 272.211 is amended to read as follows:

An association has the following powers:

(1) To engage in any activity in connection with the producing, marketing, selling, harvesting, preserving, drying, processing, canning, packaging, grading, storing, handling, or utilization of any agricultural products produced or delivered to it by its members and others; or the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring, or use by its members and others of supplies, machinery, or furnishing services of economic or educational nature; or in any one or more of the activities specified in this section.

(2) To limit its business activities to those performed only for its members. If an association transacts business with nonmembers, the same must not exceed in amount the total business transacted by the association for its members.

(3) To borrow money without limitation as to amount of indebtedness, and to make advances to members and others.

(4) To act as the agent or representative of any members, or others, in any of the activities referred to in subsection (1) *of this section* [~~hereof~~].

(5) *To* acquire, hold, own, and sell, transfer, pledge or guarantee the payment of dividends or interest on, or in the retirement or redemption of, shares of the capital stock or bonds of any association or corporation.

(6) To establish and accumulate reasonable reserves.

(7) To buy, hold, and exercise all privileges of ownership, over such real or personal property as is necessary or convenient for the conduct and operation of, or incidental to, the business of the association.

(8) To do each and every thing necessary, suitable, or proper for the accomplishment of any one or more of the purposes, or the attainment of any one or more of the objectives herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and to exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and in addition, any other rights, powers, and privileges granted by the laws of this state to corporations generally, except such as are inconsistent with the express provisions of KRS 272.011, 272.101 to 272.341, and to do any such thing anywhere.

(9) To sue and be sued in its corporate name.

Section 121. KRS 272.321 is amended to read as follows:

(1) A member of a constituent association to be *affected* [~~effected~~] by a merger or consolidation may give to the association prior to or at the meeting of its members to which the proposal of merger or consolidation is submitted to a vote, written notice that he objects to such proposal. Within twenty (20) days after the date on which the vote was taken, such member may, unless he votes in favor of the proposal, make written demand on the association for payment of the fair market value of his stock or other property rights or interest in the association. Such demands shall state the number and class of shares of stock owned by him or the nature and amount of other property rights or interest owned by him in the association. In addition to any other right he may have in law or equity, a member giving such notice shall be entitled, if and when the merger or consolidation is effected, to be paid by the surviving association, or new association, the fair market value of such stock, or other property rights or interests, as of the day prior to the date on which the vote was taken, subject only to the surrender by him of the certificate, or certificates of such stock or other evidence of ownership or other property rights or interests.

(2) If within thirty (30) days after the date upon which the objecting member tendered his written demand for payment of his stock or other property rights or interest, the fair market value of such stock or other property rights or interests is agreed upon between the member and the surviving association, the payment therefor shall be made within sixty (60) days after the date of such agreement, upon surrender of the certificate or other evidence of such property rights or interests, whereupon the member shall cease to have any interest in such stock or other property rights or interest in the association.

(3) If, during the thirty (30) day period mentioned in the preceding subsection, the member and the surviving association or new association do not agree as to the fair market value of such stock or other property rights or interests, the member may, within sixty (60) days thereafter, file a petition in the circuit court of the county in which the surviving association or new association has its registered office or principal place of business asking for the appointment of three (3) disinterested appraisers to appraise the fair market value of his stock or other property rights or interests. A summons, together with a copy of the petition, shall be served on the surviving association or new association at least twenty (20) days prior to a hearing on the petition by the court. The award of the appraisers, or a majority of them, if no exceptions be filed thereto within ten (10) days after the award has been filed in court, shall be confirmed by the court, and when confirmed shall be final and conclusive, and the member, upon depositing with the court the proper stock certificates or other evidence of such property rights or interests, shall be entitled to judgment against the association for the appraised value thereof as of the day prior to the date on which the vote was taken. If either party files exceptions to the award of the appraisers within ten (10) days after the award has been filed

in court, the case shall be transferred to the civil issue docket of the circuit court for trial and shall be there tried in the same manner, as near as may be practicable, as is provided for the trial of cases under the eminent domain law of this state, and with the same right of appeal to the Court of Appeals. The court shall assess the cost of the proceedings as it deems equitable. Upon payment of the judgment, the surviving association or new association is entitled to have the member's stock certificates or other evidence of such property rights or interests surrendered to it by the clerk of the court. Unless the member files such a petition within the time prescribed, he, his assigns and heirs claiming under him shall have no right to payment hereunder, but in that event nothing herein shall impair his status as a member.

(4) If the notices sent to members in connection with any meeting to vote upon a proposed merger or consolidation make no reference to the provisions of subsection (1) *of this section*, a member entitled to but through lack of actual knowledge did not avail himself of the provisions of this section, unless he voted for the proposal, is entitled, if he so demands in writing within one (1) year after the date on which the vote was taken on the proposed merger or consolidation, to recover from the surviving association or new association any actual damage which he suffered from failure of the association of which he was a member to make such reference.

(5) The liability to pay for stock or other property rights or interests or to pay damages imposed by subsection (4) *of this section* on an association extends to the surviving association or new association.

(6) Shares of stock acquired by an association, a surviving association, or a new association pursuant to the payment of an agreed fair market value thereof or to payment of a judgment entered therefor may be held and disposed of by such association as in the case of other treasury shares.

(7) This section does not apply to a merger if on the date of the filing of the articles of merger the surviving association is the owner of all outstanding shares of the other association or associations, domestic or foreign, participating in the merger and if the merger makes no changes in the relative rights of the members of the surviving association.

(8) No member of a constituent association to be affected by a merger or consolidation, who objects thereto and makes written demand for payment of the fair market value of his stock or other property rights or interests in the association, as provided in this section, is entitled to payment at any time prior to the time that he would otherwise be entitled to payment pursuant to valid provisions of such stock, or valid provisions of the articles of incorporation or bylaws of the association, in effect on the date of the vote for such merger or consolidation.

Section 122. KRS 272.345 is amended to read as follows:

(1) Each director, officer, employe or agent of an association organized or operating under KRS 272.121 to 272.341, or his personal representative, or any person who is or was serving at the request of an association as a director, officer, employe or agent of another association, corporation, partnership, joint venture, trust or other enterprise or entity, or such person's personal representative, shall be indemnified by the association against claims, liabilities, expenses, and costs actually and necessarily incurred by him or his estate in connection with, or arising out of, any action in which he is made a party by reason of his being, or having been, an officer, director, employe, or agent, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the association, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

(2) The right of indemnification herein provided for shall also apply *with* [~~in~~] respect *to* [~~of~~] any amount paid in compromise of any such claim asserted against such director, officer, employe or agent (including expenses and costs actually and necessarily incurred in connection therewith); provided the board of directors of the association shall have first approved such proposed compromise settlement and determined that the director, officer, employe or agent involved was acting in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the association; but in taking such action any director involved shall not be qualified to vote thereon, and if for this reason a quorum of the board cannot be obtained to vote on such matter it shall be determined by a committee of three disinterested shareholders appointed by the shareholders at a duly called special meeting, or at a regular meeting.

(3) Expenses and costs (including attorney's fees) incurred by a director, officer, employe or agent in defending an action as aforesaid may be paid by the association in advance of the final disposition of such action upon receipt of an undertaking by or on behalf of such director, officer, employe or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the association.

(4) The right of indemnification herein provided for shall not be exclusive of any other rights to which an officer, director, employe or agent may be entitled under any bylaw, agreement, vote of shareholders, vote of disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity (including, without limitation, serving at the request of the association as a director, officer, employe or agent of another association, corporation, partnership, joint venture, trust or other enterprise or entity), and shall continue as to any person who has ceased to be a director, officer, employe or agent and shall inure to the benefit of any heirs, executors and administrators of any such person.

(5) An association shall have the power to purchase and maintain insurance on behalf of any person who is or was an officer, director, employe or agent of the association, or is or was serving at the request of

the association as a director, officer, employe or agent of another association, corporation, partnership, joint venture, trust or other enterprise or entity, against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, whether or not such association would have the power to indemnify him against such liability under the provisions of this section.

Section 123. KRS 278.190 is amended to read as follows:

(1) Whenever any utility files with the commission any schedule stating new rates, the commission may, upon its own motion, or upon complaint as provided in KRS 278.260, and upon reasonable notice, *hold* [~~enter upon~~] a hearing concerning the reasonableness of the new rates.

(2) Pending such hearing and the decision thereon, and after notice to the utility, the commission may, at any time before said schedule becomes effective, suspend the operation of said schedule and defer the use of such rate, charge, classification or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect; and after such hearing, either completed before or after the rate, charge, classification or service goes into effect, the commission may make such orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of such five (5) months the utility may place the proposed change of rate, charge, classification or service in effect at the end of such period after notifying the commission, in writing, of its intention so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in such manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during said five (5) months' suspension period, finds that the company's credit or operations will be materially impaired or damaged by the failure to permit said rates to become effective during said five (5) months' period, said commission may, after any hearing or hearings, permit all or a portion of said rates to become effective under such terms and conditions as the commission may, by order, prescribe.

(3) At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

(4) In the event the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of such increased rates or charges, the utility shall make the same within sixty (60) days after a final determination of the proceeding by an order of the court or commission with or without interest in the discretion of the commission. If the utility fails to make such refund within sixty (60) days after such final determination, any party entitled to such refund may, after ten (10) days' written demand, bring an action therefor in any court of competent jurisdiction of this state, and may recover, in addition to the amount of the refund due, legal interest, court costs and reasonable attorney's fees. No such action may be maintained unless instituted within one (1) year after such final determination. Any number of persons entitled to such refunds may join in as plaintiffs in a single action and the court shall render a judgment severally for each plaintiff as his interest may appear.

Section 124. KRS 287.174 is amended to read as follows:

The methods and procedures set out in KRS 287.172 and 287.173 are authorized in addition to any other methods or procedures for the accomplishment of the same or similar purposes which heretofore may have been established by law. It is the purpose of KRS *287.172, 287.173 and this section* [~~287.171 to 287.174~~] to make effective in this Commonwealth the provisions and purposes of the act of congress dated August 17, 1950, which is compiled as chapter 729 of volume 64 of the United States Statutes, and as 12 U.S.C.A. sec. 214.

Section 125. KRS 287.215 is amended to read as follows:

(1) (a) In addition to the powers heretofore granted, any bank or trust company or combined bank and trust company shall have the power to lend money repayable in installments; to charge or to receive in advance interest therefor in the case of a loan having a maximum maturity of not more than five (5) years and thirty-two (32) days; to contract for a charge for a secured or unsecured installment loan, and which under its terms shall be repayable in installments over a period of not exceeding ten (10) years and thirty-two (32) days, which charge shall be at a rate not exceeding eight dollars ($8) per one hundred dollars ($100) per annum upon the principal amount of the loan which charge or charges shall be for the entire period of the loan and may be collected in advance only if the maximum maturity of the loans does not exceed five (5) years and thirty-two (32) days.

(b) If the maturity of the loan exceeds five (5) years and thirty-two (32) days but does not exceed ten (10) years and thirty-two (32) days the charge of interest may not be discounted or received in advance but may be added on to the principal amount of the loan and shall not be discounted.

(c) If any scheduled payment or deferred payments are more than twice as large as the average of the earlier scheduled payments, the debtor and creditor shall agree that the debtor has the right to finance the amount of such payment or deferred payments at the time they are due without penalty. The terms of the refinancing which are agreed to by the debtor and the creditor shall be no less favorable to the debtor than the terms of the original loan.

(2) In addition to the charge permitted by this section, no further amount shall be directly or indirectly charged, contracted for, or received on any such installment loan, except lawful fees actually paid to a public officer for filing, recording, or releasing any instrument securing the loan and delinquent charges as hereinafter set out, and except an investigation fee not exceeding one dollar ($1) for each fifty dollars ($50) or fraction thereof upon the first eight hundred dollars ($800) of the principal amount of such loans.

(3) Delinquency charges may be made not to exceed five cents (5) for each dollar of each installment more than ten (10) days in arrears, and only one delinquency charge shall be made on any one installment. No delinquency charge shall exceed five dollars ($5) on any one installment. In addition to such delinquency charges, attorney's fees not exceeding fifteen percent (15%) of the unpaid balance and court costs may be collected, provided that the note is referred to an attorney not a salaried employe of the holder for collection.

(4) The lending institution shall permit the borrower to repay his loan in whole or in part at any time. If a loan is paid in full prior to maturity, the lending institution shall make a rebate at a rate not less than in accordance with the Rule of 78s if the maximum financing charge permitted hereunder has been taken. If a lesser charge has been taken, the rebate shall be at not less than a proportional rate. Provided, however, the lending institution shall be permitted in computing rebates to retain a minimum charge of ten dollars ($10) to cover its acquisition costs and where the amount of credit for anticipation of repayment is less than one dollar ($1), no rebate need be made.

(5) In the case of loans made under this section the corporation shall not take any assignment, pledge or transfer of wages to be earned or paid in the future, nor any first lien or first mortgage on real estate as security, except such lien as is created by virtue of a judgment or decree or first mortgage liens on loans on unimproved real estate not exceeding ten (10) acres in size or on real estate on which there is located or to be located a residential mobile home. Nothing in this section is intended to prevent lending institutions from making loans under the provisions of the National Housing Act or any other federal legislation, which loans are hereby authorized.

(6) No lending institution under this section shall split up or divide a loan or permit any person to become obligated to it under more than one contract of loan at the same time for the purpose of obtaining a greater charge than would otherwise be permitted by this section.

(7) Every note evidencing a loan made under this section shall contain the following information and provisions: The original principal amount of the loan excluding any charge made under this section; a statement of the total charge for the loan; the amount and the date of each installment; the date of final maturity; an agreement that the borrower may repay the loan in whole or in part at any time, and that if the loan is paid in full before final maturity, the borrower will receive a refund of the unearned portion of the charge as required by this section. At the time the loan is made, the lending institution shall give the borrower either a copy of the note, or a statement of the transaction containing the provisions and information required to be contained in the note. The lending institution shall deliver a receipt for each payment.

(8) In advertising for loans subject to this section, every advertisement shall conform to the following requirement: Any statement of the amount of the loan shall be the original principal amount showing in detail any charge made under this section.

(9) KRS 288.420, 288.620 and 360.010 shall not apply to loans made under authority of this section, but said sections shall remain in full force and effect for all other purposes. Nothing in this section shall be construed to impair the validity or effect of said sections with respect to loans other than those made pursuant to this section nor shall anything in this section be construed to impair the validity or effect of KRS 360.025.

(10) Any contract of loan in the making or collection of which any act shall have been done which constitutes a willful violation of any provision of this section shall be void, and the bank, trust company, *or* combined bank and trust company shall have no right to collect or receive any interest or charges whatsoever on such loan, but the unpaid principal of the loan shall be paid in full to the lending institution.

Section 126. KRS 287.485 is amended to read as follows:

All fees collected and paid into the state treasury under the provisions of KRS Chapters 287, 288, 289, 290, 291, 292, 294, 307, 366 and 316.010 to 316.070 shall be credited to a revolving trust or agency fund account, as provided in KRS *45.253* [~~45.140~~], for the department of banking and securities and shall be separately accounted for and shall be used solely for the administration and enforcement of said KRS Chapters.

Section 127. KRS 289.024 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 289.451(13) [~~and KRS 289.461(2)(k)~~] any state savings and loan association which has not become insured by December 31, 1974, must furnish proof satisfactory to the commissioner of banking and securities prior to June 30, 1975, that it has:

(a) Obtained insurance of its savings accounts and share accounts by the Federal Savings and Loan Insurance Corporation, any agency of this state or other federal agency established for the purpose of insuring savings accounts in associations, or with any other insurer approved by the commissioner and meeting the qualifications prescribed in this subsection; provided that no association subject to the provisions of this chapter shall have the power to obtain insurance of accounts from, or represent in any way its accounts are insured by, any insurer other than the Federal Savings and Loan Insurance Corporation, or other federal agency or state agency, unless the commissioner, after application to him for approval and after reasonable notice and an opportunity to be heard the commissioner shall have determined:

1.[~~(i)~~] That the contract of insurance contemplated is written upon substantially the same basis as to form, amount, coverage, maturity, voluntary and involuntary termination and other provisions as the insurance contract provided at that time by the Federal Savings and Loan Insurance Corporation, and complies with the further requirements for protection as the commissioner in his discretion may deem reasonably necessary; and

2.[~~(ii)~~] That the contract is underwritten by an insurer having a net worth reasonably commensurate with the risk underwritten, which is licensed in this State and authorized to do business in this state, and the commissioner shall have issued a certificate of approval of such application; or

(b) Become a federal savings and loan association member of the Federal Home Loan Bank Board; or

(c) Merged into an existing insured savings and loan association, either state or federal; or

(d) Entered into voluntary liquidation.

Any merger into an insured savings and loan association or any voluntary liquidation must have the prior written approval of the commissioner.

(2) Any state savings and loan association which has not by the close of business June 30, 1975, accomplished any one of the four steps prescribed in subsection (1) shall on and after July 1, 1975, be prohibited from:

(a) Making any loans pursuant to *this* [~~KRS~~] chapter [~~289~~]; and

(b) Accepting any savings accounts, payments on share accounts or membership fees.

(3) Notwithstanding any other provisions of state law to the contrary, if any state savings and loan association has not accomplished one of the four steps prescribed in subsection (1) *of this section* by December 31, 1974, the commissioner shall apply to a court of general jurisdiction in the county in which the home office of such association is located for the appointment of a liquidating receiver for purposes of liquidating the assets and winding up the business affairs of such association. However, if such state savings and loan association shall furnish to the commissioner proof satisfactory to him that a definite plan of accomplishment of one of said four conditions prescribed in subsection (1) *of this section* has been substantially completed, the commissioner may, in his sole discretion, extend the time for taking action for the appointment of such receiver. The commissioner in granting such extension may permit the acceptance of savings account payments on share accounts, membership fees or the making of loans.

Section 128. KRS 289.025 is amended to read as follows:

No certificate of incorporation as provided for under *this* [~~KRS~~] chapter [~~289~~] shall be granted or approved by the commissioner after June 16, 1972, unless the applicant for such certificate:

(1) Submits sufficient evidence of being fully insured by the Federal Savings and Loan Insurance Corporation or other federal agency; or

(2) Submits sufficient evidence of commitment by the Federal Savings and Loan Insurance Corporation or other federal agency that the applicant will be issued federal insurance immediately subsequent to the execution of the certificate of incorporation by the commissioner.

Section 129. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance fees, licenses and miscellaneous charges as follows:

(1)	Annual statement:	
(a)	Filing each year	$ 100.00
(b)	Filing additional or supplemental statement in same year	100.00
(2)	For filing charter documents:	
(a)	Original charter document, bylaws and records of organization, or certified copies thereof, required to be filed	100.00
(b)	Amended charter documents, bylaws and records of organization, or certified copies thereof	50.00
(3)	Certificate of authority:	
(a)	Issuance of original certificate	500.00
(b)	Amending, to add a line	50.00
(c)	Renewal, each year	100.00
(4)	Organization of domestic mutual insurers:	
	Filing application for solicitation permit and issuance of such permit	200.00
(5)	Self insurer:	
(a)	Application to become self-insurer under *Subtitle 39* [~~KRS 304.39~~]	200.00
(b)	Annual review of status under *Subtitle 39* [~~KRS 304.39~~]	100.00
(c)	Notification of self-insurance program under *Subtitle 32* [~~KRS 304.32 et seq~~]	50.00

(6)	Agent's licenses~~,~~ foreign and alien insurers:	
(a)	License for life insurer, whether or not health insurance is included, biennial	40.00
(b)	License for industrial life insurer, only, biennial	40.00
(c)	License for other insurance, each insurer represented, biennial	40.00
(d)	Limited license as travel insurance agent, biennial	40.00
(e)	Temporary license as property and casualty agent	20.00
(f)	Temporary license as life and health agent	20.00
(g)	Nonresident agent, biennial	50.00
(7)	Surplus lines broker, biennial	100.00
(8)	Solicitor's license, biennial	20.00
(9)	Adjuster's license, biennial	50.00
(10)	Consultant's license, biennial	50.00
(11)	Agent's licenses, fraternal benefit societies, biennial	40.00
(12)	Examination~~,~~ for or in connection with licensing of agents, solicitors, adjusters, and consultants	50.00
(13)	Annual registration fee of unauthorized insurer	500.00
(14)	Advisory organizations:	
(a)	Application for license	500.00
(b)	Annual renewal	100.00
(15)	Rate and form filings:	
(a)	Rate level revision filing in a non-competitive market	100.00
(b)	Other rate and form filings	5.00
(16)	Premium finance company license issuance and annual renewal	100.00
(17)	Cost of administering *Subtitle 32* [~~KRS 304.32~~] per membership contract in force on December 31st of each year	.10
(18)	Miscellaneous services:	
(a)	Filing other documents, each	5.00
(b)	Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each	5.00
(c)	For copies of any document on file with the commissioner, per page	.50
(d)	Copy of annual statements, per page	1.00

Section 130. KRS 304.10-200 is amended to read as follows:

(1) An unauthorized insurer shall be sued, upon any cause of action arising in the state under any contract issued by it as a surplus lines contract pursuant to this subtitle, in the circuit court of the county in which the cause of action arose.

(2) Service of legal process against the insurer may be made in any such action by service upon the secretary of state as provided in KRS 304.3-230*(5)*.

(3) An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision stating the substance of this section, and designating the person to whom the secretary of state shall mail process as provided in *KRS 304.3-230(5)* [~~subsection (2) of this section~~].

Section 131. KRS 304.15-360 is amended to read as follows:

KRS 304.15-310 to 304.15-352, inclusive, shall not apply to any of the following:

(1)[~~(a)~~] Reinsurance;

(2)[~~(b)~~] Group insurance;

(3)[~~(c)~~] Pure endowment;

(4)[~~(d)~~] Annuity or reversionary annuity contract, except as provided in KRS 304.15-315;

(5)[~~(e)~~] Term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty (20) years or less expiring before age seventy-one (71) for which uniform premiums are payable during the entire term of the policy;

(6)[~~(f)~~] Term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in KRS 304.15-350 and 304.15-352, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance, and for a term of twenty (20) years or less expiring before age seventy-one (71), for which uniform premiums are payable during the entire term of the policy;

(7)[~~(g)~~] Policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in KRS 304.15-320, 304.15-330, 304.15-340 and 304.15-342, exceeds two and one-half percent (2 1/2%) of the amount of insurance at the beginning of the same policy year; nor to any

(8)[~~(h)~~] Policy which shall be delivered outside this state through an agent or other representative of

the insurer issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be at the age at expiry of the oldest life.

Section 132. KRS 311.732 is amended to read as follows:

(1) If a pregnant woman is less than eighteen (18) years of age and not emancipated, or if she has been adjudged an incompetent under KRS Chapter *387* [~~203~~], a physician shall not perform an abortion upon her unless he first obtains the consent of both the pregnant woman and that of her parents, if she is less than eighteen (18), or of her guardian, if she is an incompetent, except as hereinafter provided. In deciding whether to grant consent, a pregnant woman's parents or guardian shall consider only the child's or ward's best interests.

(2) If one of the pregnant woman's parents has died or is unavailable to the physician within a reasonable time and in a reasonable manner, consent of the remaining parent shall be sufficient. If both parents have died or are otherwise unavailable to the physician within a reasonable time and in a reasonable manner, consent of the pregnant woman's guardian or guardians shall be sufficient. If the pregnant woman's parents are divorced, consent of the parent having custody shall be sufficient. If neither a parent nor a legal guardian is available to the physician within a reasonable time and in a reasonable manner, consent of any adult person standing in loco parentis shall be sufficient.

(3) If one or both of the parents or guardians of the pregnant woman refuse to consent to the performance of an abortion, or if she elects not to seek the consent of one or both of her parents or guardians, the appropriate circuit court in the county in which the applicant resides or in which the abortion is sought shall upon petition or motion, after an appropriate hearing, authorize a physician to perform the abortion if the court determines that the pregnant woman is sufficiently mature or competent to give informed consent to the proposed abortion.

(4) If the court determines that the pregnant woman is not sufficiently mature or competent to give informed consent or if the pregnant woman does not claim to be sufficiently mature or competent to give informed consent to the proposed abortion, the court shall determine whether the performance of an abortion would be in her best interests. The court shall not decide until after parental consultation in which the court may participate, if consultation is possible within a reasonable time and in a reasonable manner, unless the court concludes the pregnant woman's best interests would not be served by its participation in the consultation. Whether or not there has been parental consultation, the court shall deny the abortion if it decides that the pregnant woman's best interests would be served by denial, or shall authorize a physician to perform the abortion if it concludes that the pregnant woman's best interests would be served by authorization.

(5) The pregnant woman may participate in court proceedings on her own behalf, and the court may appoint a guardian ad litem for her. The court shall advise her that she has a right to court-appointed counsel, and shall, upon her request, appoint counsel.

(6) Court proceedings under this section shall be confidential and shall be given precedence over other pending matters to ensure a prompt decision to serve the best interests of the pregnant woman. The court shall make specific factual findings and legal conclusions supporting its decision and shall order a record of the evidence to be maintained which shall include its findings and conclusions.

(7) The requirements of subsection (1) of this section shall not apply when, in the medical judgment of the attending physician based on the particular facts of the case before him, there exists a medical emergency. In such a case, the physician who is to perform the abortion shall describe the basis of his medical judgment that such an emergency exists on a form prescribed by the department as required by KRS 213.055, and the physician or his agent shall provide each parent or guardian with the following information within seven (7) days of the time the abortion is performed, either in person or by sending it by certified mail to the last known address of each parent or guardian:

(a) That an abortion has been performed upon his daughter or ward, and the medical indications for the physician's judgment that a medical emergency exists or existed;

(b) The name of the physician who performed the abortion or is to perform the abortion; and

(c) The particular medical risks associated with the particular abortion procedure employed, the symptoms of which might become manifest in the future.

(8) If the woman elects not to have her parents informed by the physician or his agent as provided in subsection (7) of this section, she shall inform the physician and the physician and his agents shall postpone giving notification until thirty (30) days after the first day in which the woman is, in the medical judgment of the attending physician, medically capable of filing a petition or motion for an order authorizing a physician and his agents to refrain from making the notification required by this section. The appropriate circuit court in the county in which the woman resides or in which the abortion was performed shall, upon petition or motion, after an appropriate hearing, authorize a physician and his agents to refrain from making the notification required by subsection (7) of this section if the court determines that the woman is mature and capable of giving informed consent or if it determines the woman's best interests would not be served by the notification. If the court makes neither determination, it shall issue an order specifying the date by which the

physician or his agent shall provide the information prescribed by subsection (7) of this section. If the court does not reach a determination before the time by which the physician and his agents otherwise would be required to make notification, the court shall order that notification be withheld until it rules.

(9) No filing fees shall be required of any woman availing herself of the procedures provided by this section. An expedited confidential appeal shall be granted any woman to whom the court denies an order authorizing an abortion or an order authorizing a physician and his agents to refrain from making notification required by this section.

(10) The Supreme Court of Kentucky is respectfully requested, in the exercise of its powers under the Constitution of the Commonwealth, to issue promptly rules necessary to assure that proceedings under this section, and any appeals or other proceedings which may be related to this section, are confidential and prompt. The Supreme Court is further respectfully requested to issue promptly any rules or orders consistent with this chapter necessary to eliminate any undue burdens on a minor's or incompetent's opportunity for an abortion with sufficient expedition.

(11) Failure to comply with the requirements of this section, other than subsection (10), is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this Commonwealth shall not be construed to preclude the award of punitive damages or damages for emotional distress, even if unaccompanied by physical complications in any civil action brought pursuant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

Section 133. KRS 317.530 is amended to read as follows:

(1) All fees and charges collected by the barber board shall be paid into the state treasury and credited to a separate revolving or trust and agency account established for the purpose of administering the provisions of this chapter as it relates to the barber board. The cost and expenses of administering the provisions of this chapter including compensation to members of the board and *its* [~~their~~] officers and employes shall be paid out of the state treasury upon warrants of the secretary of the finance and administration cabinet according to law provided that the total expense of administering these provisions shall not exceed the fees and other charges collected by the board and available in the revolving or trust and agency fund account of the Kentucky board of barbering.

(2) All fees and charges collected by the board shall be available for the administration of the provisions of this chapter as it relates to the board, and for no other purpose.

Section 134. KRS 317.560 is amended to read as follows:

(1) The principal *office* [~~offices~~] of the board created by this chapter shall be located in such *place* [~~places~~] as will enable the board to have ready access to records and technical assistance of the division of occupations and professions.

(2) The division of occupations and professions shall give cooperation and technical advice and assistance to the board created by this chapter.

Section 135. KRS 317.570 is amended to read as follows:

(1) No examination [~~or school~~] or part of any examination required by this chapter shall be given unless a quorum of the board is present to supervise such examination;

(2) Examinations given by the board shall cover all phases of the applicant's qualifications for the license applied for including skill and technique of applicant as well as scientific and other knowledge;

(3) Examinations shall be given at regularly prescribed intervals but not more frequently than thirty (30) days;

(4) Examinations shall be given at the principal *office* [~~offices~~] of the board.

Section 136. KRS 317A.030 is amended to read as follows:

(1) There is created an independent agency of the state government to be known as the Kentucky board of hairdressers and cosmetologists, hereinafter referred to as the "*cosmetology* [~~cosmetologist~~] board," which shall have complete supervision over the administration of the provisions of this chapter relating to cosmetology, cosmetologists, schools of cosmetology, students enrolled in cosmetology, apprentice cosmetologists, manicurists, teachers of cosmetology, and cosmetology salons;

(2) The cosmetology board shall be composed of five (5) members appointed by the governor:

(a) Four (4) of the members shall have been cosmetologists five (5) years prior to their appointment and residents of Kentucky;

(b) Two (2) of whom shall be cosmetology salon owners;

(c) One (1) of whom shall be a cosmetology teacher in public education and shall not own any interest in a cosmetology salon;

(d) One (1) of whom shall be an owner of or one who has a financial interest in a licensed cosmetology school and a member of a nationally recognized association of hairdressers and cosmetologists;

(e) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated; and

(f) None of whom nor the administrator shall be financially interested in, or have any financial connection with wholesale cosmetic supply or equipment businesses.

At all times in the filling of vacancies of membership on the board this balance of representation shall be maintained.

(3) Upon expiration of a term of any member, the appointment shall be for a term of two (2) years;

(4) The governor shall not remove any member of the board except for cause;

(5) The board shall elect from its members one (1) to serve as chairman, one (1) as vice-chairman, and a third to serve as secretary;

(6) Three (3) members shall constitute a quorum for the transaction of any business of the board;

(7) Each member of the board shall receive a compensation of fifty dollars ($50) per day for each day of attendance at meetings of the board, and shall be reimbursed for necessary traveling expenses;

(8) The board shall hold such meetings at such place in the state and at such times as are deemed necessary by the board to discharge its duties.

Section 137. KRS 317A.040 is amended to read as follows:

(1) The *cosmetology* [~~cosmetologist~~] board may employ inspectors and such other personnel as may be reasonably necessary to carry out the provisions of this chapter, whose compensations shall be established within budgetary limits by the department of personnel;

(2) The *cosmetology* [~~cosmetologist~~] board shall by appropriate order employ an administrator who shall be charged with the responsibility of administering the provisions of this chapter, and the policies and regulations of the board relating to hairdressing and cosmetology;

(3) No person shall be employed as an administrator unless he is a licensed cosmetologist;

(4) The administrator may receive a salary of $7,500 per annum, or such compensation as may be established by classification of the position by the department of personnel;

(5) The *cosmetology* [~~cosmetologist~~] board shall publish and distribute copies of its rules and regulations and revisions thereof to all persons licensed by it and to such other persons, places or agencies as may be required by law or deemed by it reasonably necessary to the administration of the provisions of this chapter, but such publications shall be clearly marked, stamped or printed "Informational Copy."

Section 138. KRS 317A.110 is amended to read as follows:

(1) The principal *office* [~~offices~~] of the board created by this chapter shall be located in such place as will enable the board to have access to records and technical assistance of the division of occupations and professions;

(2) The division of occupations and professions shall give cooperation and technical advice and assistance to the board created by this chapter.

Section 139. KRS 317A.120 is amended to read as follows:

(1) No examination [~~or school~~] or part of any examination required by this chapter shall be given unless a quorum of the board is present to supervise such examination;

(2) Examinations given by the board shall cover all phases of the applicant's qualifications for the license applied for including skill and technique of applicant as well as scientific and other knowledge;

(3) Examinations shall be given at regularly prescribed intervals but not more frequently than thirty (30) days;

(4) Examinations shall be given at the principal *office* [~~offices~~] of the board.

Section 140. KRS 322.050 is amended to read as follows:

No person shall be eligible for a license unless he is of good character and reputation, nor shall any person be eligible if he has been convicted of any felony involving moral turpitude or is adjudged *mentally disabled* by a court of competent jurisdiction [~~mentally disabled~~].

Section 141. KRS 324.141 is amended to read as follows:

(1) Upon payment of the established application fees, any person who holds a real estate license in good standing issued by any state or territory which has licensing and educational standards substantially equal to or greater than this state may be licensed without examination if such state or territory extends similar reciprocity to licensees of this state.

(2) Every nonresident applicant shall file an irrevocable consent stating that legal actions may be commenced against the applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the commission, the consent stipulating and agreeing that service of process or pleadings on the commission shall be taken and held in all courts to be as valid and binding as if service had been made upon the applicant in the state of Kentucky. Any process or pleadings served upon the commission, shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by certified mail, return receipt requested [~~or by registered mail~~] to the main office of the applicant against which the process or pleadings are directed.

Section 142. KRS 324.160 is amended to read as follows:

(1) The commission may suspend or revoke any license or levy fines not to exceed five hundred dollars ($500) or both or place any licensee on probation for a period of up to twelve (12) months for any of the following causes:

(a) Obtaining a license through false or fraudulent representation.

(b) Making any substantial misrepresentation.

(c) Making any false promises of a character likely to influence, persuade or induce.

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise.

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts.

1. A real estate licensee shall not directly or indirectly buy property listed with him or her nor acquire an interest therein without making his or her true position clearly known in writing on the sales contract or offer to purchase.

2. Before a real estate licensee buys, sells or receives compensation for property in which the licensee owns an interest, the licensee shall disclose any interest in the property to all parties to the transaction.

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker at the time the listing was obtained. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate or profit on expenditures made for a client without the full knowledge and consent of the client.

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of that principal broker.

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his or her possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment.

(i) Paying valuable consideration to any person for services performed in violation of this chapter.

(j) Entering a plea of guilty or nolo contendere to, or having been found guilty of, or having been convicted of, a felony, in which fraud is an essential element, and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence; or soliciting, selling or offering for sale real property under a scheme or program that constitutes a lottery or contest or deceptive practice, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate, or acting in the dual capacity of broker and undisclosed principal in the transaction.

(k) Guaranteeing, authorizing or permitting a person to guarantee that future profits will result from a resale of real property.

(l) Negotiating or attempting to negotiate the sale, exchange, lease or rental of real property with an owner or lessor knowing that the owner or lessor had a written outstanding contract granting exclusive agency in connection with the property to another real estate broker.

(m) Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other such action.

(n) Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document.

(o) Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which would indicate a violation of this chapter.

(p) Paying valuable consideration to any person for the name or names of potential sellers or buyers except as otherwise provided in KRS 324.020(3).

(q) Violating any of the provisions in this chapter of any lawful order, rule or regulation made or issued under the provisions of this chapter.

(r) Any other conduct that constitutes improper, fraudulent or dishonest dealing.

(2) Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (1)(r) of this section.

(3) No unlawful act or violation of any provision of this chapter by any associate of the principal broker may be cause for holding the principal broker primarily liable unless the broker has [~~guilty~~] knowledge of such unlawful violation. The commission through means of a formal hearing may fine, suspend, or revoke the license of the principal broker for failing to exercise adequate supervision over the activities of licensed affiliates.

(4) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing. A "net listing" shall be defined as a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the commission.

Section 143. KRS 324.281 is amended to read as follows:

(1) There is hereby created the Kentucky real estate commission. The governor shall appoint five (5) persons, at least four (4) of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of said commission shall be for three

(3) years and until their successors are appointed and qualify.

(2) For each appointment or vacancy, the Kentucky Association of Realtors shall supply a list of not less than three (3) names of licensees to the governor each year from which the broker or sales associate appointments are to be made. The governor may fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.

(3) There shall not be more than three (3) of any one political party serving on the commission at the same time. Appointees to fill vacancies shall be appointed for the unexpired term.

(4) It shall be the duty of the commission to draft regulations, to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter; to conduct whenever deemed necessary certain educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized rules and regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes, rules or regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

(5) The commission, at its discretion, may use such funds as are necessary to purchase liability insurance for members and executive officers of the commission, inspectors and for members of the staff exempted from classified service of the state by KRS *18A.115* [~~18.140~~].

Section 144. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the *cabinet* [~~department~~] a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the *cabinet* [~~department~~] may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the *cabinet* [~~department~~] and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The [~~department for~~] natural resources and environmental protection *cabinet* shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight-month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the *cabinet* [~~department~~] under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the *cabinet* [~~department~~] within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the *cabinet* [~~department~~] finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) a ten percent (10%) or more interest of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, P.L. 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three-year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the *cabinet* [~~department~~], of a United States geological survey topographic map or such other map acceptable to the *cabinet* [~~department~~] on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the *cabinet* [~~department~~], of an enlarged United States geological survey topographic map or such other map acceptable to the *cabinet* [~~department~~] meeting the requirements of *paragraphs (a) through (i) of this subsection* [~~the subsections below~~]. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) *of this section* [~~below~~], except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the *cabinet* [~~department~~] of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the *cabinet* [~~department~~] and shall be reasonably specific as to the work being certified. The *cabinet* [~~department~~] may reject any document or map as incomplete if it is not properly certified.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS

189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the [~~department of~~] transportation *cabinet* attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the *cabinet* [~~department~~] for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the *cabinet* [~~department~~]. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued. The operator shall file with the *cabinet* [~~department~~] a bond payable to the Commonwealth of Kentucky with surety satisfactory to the *cabinet* [~~department~~] in the penal sum to be determined by the *cabinet* [~~department~~] for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the *cabinet* [~~department~~]. In determining the amount of the bond the *cabinet* [~~department~~] shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the *cabinet* [~~department~~] in the event of forfeiture. The *cabinet* [~~department~~] shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where the circumstances are such as to warrant an exception, the *cabinet* [~~department~~], in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the *cabinet* [~~department~~] shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the *cabinet* [~~department~~] require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The *cabinet* [~~department~~] shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The *cabinet* [~~department~~] shall enforce this subsection consistent with *this* [~~KRS~~] chapter [~~350~~] except that the *cabinet* [~~department~~] shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(16) The *cabinet* [~~department~~] shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The *cabinet* [~~department~~] shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the *cabinet* [~~department~~] shall require, for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.

(17) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the

burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the *cabinet* [~~department~~] are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the *cabinet* [~~department~~] might require; or

(e) Any additional revised or updated information required by the *cabinet* [~~department~~] has not been provided;

Prior to the approval of any renewal of permit the *cabinet* [~~department~~] shall provide notice to the appropriate public authorities.

(18) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(19) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(20) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the *cabinet* [~~department~~] may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(21) Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the *cabinet* [~~department~~] determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The *cabinet* [~~department~~] shall, consistent with all applicable requirements of *this* [~~KRS~~] chapter [~~350~~], issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The *cabinet* [~~department~~] shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 145. KRS 353.565 is amended to read as follows:

(1) There is hereby created in the department of mines and minerals, the "Kentucky oil and gas conservation commission" which shall be composed of five (5) members. Four (4) of the members shall be appointed by the governor and the fifth member, who shall serve as chairman of the commission, shall be the director of oil and gas conservation and who shall serve in an ex officio capacity as a non-voting member except in the case of a tie. The four (4) members appointed by the governor must be residents of this state and not more than one (1) of them may be directly employed in the exploration for or the production of oil or gas, or deriving more than fifty percent (50%) of such person's income from the exploration for or production of oil or gas, or engaged in a business directly servicing or supplying such activities. No member of the commission shall participate in the deliberations of the commission or vote on any matter before the commission in which he, his employer, or any business unit in which he has a financial interest is an interested party; provided that a member of the commission is not prohibited from deliberating or voting on matters of general interest, such as the fixing of statewide spacing patterns, affecting him, his employer, or a business unit in which he has financial interest as a member of a class of persons to be affected by a rule, regulation or order of the commission. The commission shall not contain more than one (1) representative from any one operator, including subsidiaries or affiliates. Of the four (4) members appointed by the governor, two (2) shall be residents of eastern Kentucky and two (2) shall be residents of western Kentucky. Longitude 840' shall be

deemed as the division line between eastern Kentucky and western Kentucky.

(2) The members of the commission, except the chairman, shall be appointed for terms of four (4) years each, except that the original appointments shall be for terms of one (1), two (2), three (3) and four (4) years respectively. Each member appointed by the governor shall serve until his successor has been appointed and qualified. Members may be reappointed by the governor to serve successive terms. The members of the commission, before performing any duty hereunder, shall take *an* oath which shall be certified by the officer administering it. The oath in writing and the certificate shall be filed in the office of the secretary of state. Vacancies in the membership appointed by the governor shall be filled by appointment by him and for the unexpired term of the member whose office shall be vacant and such appointment shall be made by the governor within sixty (60) days of the occurrence of such vacancy. Any member appointed by the governor may be removed by the governor in case of incompetency, neglect of duty, gross immorality or malfeasance of office.

(3) The commission shall meet at such times and places as shall be designated by the chairman. The chairman may call a meeting of the commission at any time, and he shall call a meeting of the commission upon the written request of two (2) members. Notification of each meeting shall be given in writing to each member by the chairman at least five (5) days in advance of the meeting. Any three (3) members, one of which may be the chairman, shall constitute a quorum for the transaction of any business, including the holding of hearings, as hereinafter provided for. A majority of the commission present shall be required to determine any issue brought before it for decision.

(4) Each member of the commission, except the chairman, shall receive fifty dollars ($50) per diem not to exceed one hundred (100) days per calendar year while actually engaged in the performance of his duties as a member of the commission. Each member of the commission, including the chairman, shall also be reimbursed for all reasonable and necessary expenses actually incurred in the performance of his duties as a member of the commission.

(5) The commission shall execute and carry out, administer and enforce the provisions of KRS 353.651 and 353.652 in the manner provided herein. The commission may make such investigation of records and facilities as it deems proper.

(6) In the event an emergency is found to exist by the commission which, in its judgment, requires the making, changing, renewal, or extension of a rule, regulation, or order without first having a hearing, such emergency rule, regulation, or order shall have the same validity as if a hearing with respect to the same had been held after due notice. The emergency rule, regulation or order hereby permitted shall remain in force no longer than forty-five (45) days from its effective date, and, in any event, it shall expire when the rule, regulation, or order made after due notice and hearing with respect to the subject matter of such emergency rule, regulation or order becomes effective.

(7) The commission shall have specific authority to:

(a) Make and enforce reasonable rules and regulations and orders reasonably necessary to prevent waste, protect correlative rights, govern the practice and procedure before the commission and otherwise administer the provisions of KRS 353.651 and 353.652; and

(b) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams and other pertinent documents, and administer oaths and affirmations to such witnesses, whenever, in the judgment of the commission, it is necessary to do so for the effective discharge of its duties under the provisions of KRS 353.651 and 353.652.

(8) Any interested person may have the commission call a hearing for the purpose of taking action in respect to any matter within the jurisdiction of the commission by making a request therefor in writing. Upon the receipt of any such request, the commission promptly shall call a hearing thereon, and, after such hearing and with all convenient speed, and in any event within thirty (30) days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

(9) Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same field or pool, or in any area that appears from geologic or other data to be underlaid by a common accumulation of oil or gas, or both, and agreements between and among such owners or operators, or both, and royalty owners therein, for the purpose of bringing about the development and operation of the field, pool or area, or any part thereof, as a unit, and for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the commission, are hereby authorized and shall not be held or construed to violate any of the laws of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.

(10) Nothing in this section shall be construed as giving to the commission the right or authority to supersede the authority of the department in the administration of KRS 353.060.

Section 146. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, [~~or by registered mail~~] of such lien, the name and address of the debtor and proper description of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) If any grain or soybean crop subject to the lien of a security interest is sold to any entity which is a bona fide purchaser for value and which holds a current grain storage license issued by the Commonwealth of Kentucky or a current federal warehouse storage license, in the ordinary course of business, such entity shall take title to such crop free and clear of any such lien, and shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested [~~or by registered mail~~], of such lien, the name and address of the debtor and proper description of the property subject to the lien is given to the entity purchasing said crop prior to the payment of the proceeds of purchase to the owner or producer of such grain or soybean crop.

(4) If any livestock subject to the lien of a security interest is sold at public auction through a stockyard licensed by the Commonwealth of Kentucky in the ordinary course of business, a bona fide purchaser for value of such livestock shall take title thereto free and clear of any such lien, and the stockyard and selling agents selling such livestock shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested, [~~or by registered mail~~] of such lien, the name and address of the debtor and proper description of the livestock subject to lien is given to the stockyard prior to the time of sale.

(5) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $500 (other than fixtures, see KRS 355.9-313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.

(6) If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by *certified* [~~registered~~] mail*, return receipt requested,* of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale.

Section 147. KRS 365.330 is amended to read as follows:

Any contract, *express* [~~expressed~~] or implied, made by any person in violation of any of the provisions of KRS 365.260 to 365.380, is illegal and void and no recovery shall be had thereon.

Section 148. KRS 365.340 is amended to read as follows:

In establishing the basic cost of cigarettes to a wholesaler or a retailer it shall not be permissible to use the invoice cost *or* [~~of~~] the actual cost of any cigarettes purchased at a forced, bankrupt, or closeout sale, or other sale outside of the ordinary channels of trade.

Section 149. KRS 365.390 is amended to read as follows:

(1) To provide for the enforcement of KRS 138.146 and KRS 365.260 to 365.380, every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement and administration fee to the department of revenue on a monthly basis for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette tax was affixed during the month as required by KRS 138.146. The enforcement and administration fee to recover applicable costs shall be calculated annually by the commissioner of revenue who shall give notice thereof to licensed wholesalers who shall be liable for its payment. Payments to the department of revenue shall be made according to provisions of KRS 138.195 and shall be subject to the same penalties and interest as levied on Kentucky cigarette tax not paid on or before the due date.

(2) There is hereby created within the department of revenue a cigarette enforcement and administration account, which will be subject to the provisions of the restricted fund group, as provided in KRS *45.305* [~~45.322(1)(e)~~], and all funds collected under subsection (1) of this section shall be credited thereto with only the expenses of the department of revenue related to the administration and enforcement of KRS 138.146 and KRS 365.260 to 365.380 to be paid therefrom.

(3) The enforcement and administration fee levied in subsection (1) of this section shall be deemed to be an additional cost to be included in the basic cost of cigarettes as defined in KRS 365.270.

Section 150. KRS 367.570 is amended to read as follows:

For purposes of KRS 367.570 to 367.585 unless the context requires otherwise:

(1) "Negative option plan" means a contractual plan or arrangement under which a seller periodically sends to subscribers an announcement which identifies merchandise (other than annual supplements to previously acquired merchandise) it proposes to send to subscribers to such plan, and the

subscribers thereafter receive and are billed for the merchandise identified in each such announcement, unless by a date or within a time specified by the seller with respect to each such announcement the subscribers, in conformity with the provisions of such plan, instruct the seller not to send the identified merchandise.

(2) "Subscriber" means any person who has agreed to receive the benefits of, and assume the obligations entailed in, membership in any negative option plan and whose membership in such negative option plan has been approved and accepted by the seller.

(3) "Contract-complete subscriber" refers to a subscriber who has purchased the minimum quantity of merchandise required by the terms of membership in a negative option plan.

(4) "Promotional material" refers to an advertisement containing or accompanying any device or material which a prospective subscriber sends to the seller to request acceptance or enrollment in a negative option plan.

(5) "Selection" refers to the merchandise identified by a seller under any negative option plan as the merchandise which the subscriber will receive and be billed for, unless by the date[~~,~~] or within the period[~~,~~] specified by the seller, the subscriber instructs the seller not to send such merchandise.

(6) "Announcement" refers to any material sent by a seller using a negative option plan in which the selection is identified and offered to subscribers.

(7) "Form" refers to any form which the subscriber returns to the seller to instruct the seller not to send the selection.

(8) "Return date" refers to a date specified by a seller using a negative option plan as the date by which a form must be received by the seller to prevent shipment of the selection.

(9) "Mailing date" refers to the time specified by a seller using a negative option plan as the time by or within which a form must be mailed by a subscriber to prevent shipment of the selection.

Section 151. KRS 376.075 is amended to read as follows:

(1) Any licensed engineer and any land surveyor who performs professional services or services as defined in KRS 322.010*(3)*[~~(4)~~] for engineers and KRS 322.010*(5)*[~~(6)~~] for land surveyors shall have a lien on the building, structure, land or project on which such services were performed, to secure the amount thereof with interest as provided in KRS 360.040 and costs.

(2) The provisions of KRS 376.010(1) and (2) shall determine when a lien created under this section shall take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice.

(3) No person hereunder who has not contracted directly with the owner or his agent shall acquire a lien under this section.

(4) Any lien provided for under this section shall be dissolved unless the claimant, within six months after he ceases to provide services, files in the office of the county clerk of the county in which the property is situated a statement of the amount due the claimant, with all just credits and setoffs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the services were furnished by contract with the owner or with a contractor or architect. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

(5) Any lien created under this section shall be dissolved unless an action is brought to enforce the lien within twelve months from the day of filing the statement in the clerk's office as required by subsection (4) *of this section* [~~hereunder~~]. If the lienholder complies with all filing requirements under this section, and does so within the time herein fixed, his lien shall be valid and effective against any creditor of, or bona fide or other purchaser from, the owner of the property.

(6) The provisions of this section shall in no way abridge or conflict with the provisions of KRS 376.210 which provide for liens on public improvements, and any potential lien or valid lien of an engineer or land surveyor on a public improvement shall be governed by KRS 376.210.

Section 152. KRS 386.010 is amended to read as follows:

As used in KRS 386.010 to *386.185* [~~386.180~~], unless the context requires otherwise:

(1) "Fiduciary" means any trustee, guardian, executor, administrator, conservator or other individual or corporation holding funds or otherwise acting in a fiduciary capacity.

(2) "Principal" means any person to whom a fiduciary, as such, owes an obligation.

Section 153. KRS 386.230 is amended to read as follows:

(1) All dividends on shares of a corporation forming a part of the principal which are payable in the shares of the corporation shall be deemed principal. Subject to the provisions of this section, all dividends payable *other* [~~otherwise~~] than in the shares of the corporation itself, including ordinary and extraordinary dividends and dividends payable in shares or other securities or obligations of corporations other than the declaring corporation, shall be deemed income. Where the trustee shall have the option of receiving a dividend either in cash or in the shares of the declaring corporation, it shall be considered as a cash dividend and deemed income, irrespective of the choice made by the trustee.

(2) All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in such corporation, and the proceeds of any sale of

such rights, shall be deemed principal. All rights to subscribe to the shares or other securities or obligations of a corporation accruing on account of the ownership of shares or other securities in another corporation, and the proceeds of any sale of such rights, shall be deemed income.

(3) Where the assets of a corporation are liquidated, amounts paid upon corporate shares as cash dividends declared before such liquidation occurred or as arrears of preferred or guaranteed dividends shall be deemed income; all other amounts paid upon corporate shares on disbursements of corporate assets to the stockholders, whenever made, which are designated by the corporation as a return of capital or division of corporate property shall be deemed principal.

(4) Where a corporation succeeds another by merger, consolidation or reorganization or otherwise acquires its assets, and the corporate shares of the succeeding corporation are issued to the shareholders of the original corporation in like proportion to, or in substitution for, their shares of the original corporation, the two corporations shall be considered a single corporation in applying the provisions of this section. But two corporations shall not be considered a single corporation under this section merely because one owns corporate shares of or otherwise controls or directs the other.

(5) In applying this section the date when a dividend accrues to the person who is entitled to it shall be held to be the date specified by the corporation as the one on which the stockholders entitled thereto are determined, or in default thereof the date of declaration of the dividend.

Section 154. KRS 387.090 is amended to read as follows:

(1) When a guardian becomes insane, moves out of the state, becomes incapable of discharging the duties of his trust or is evidently unsuited therefor, the court on being satisfied that either of the causes aforenamed exists shall remove him, or, when it appears proper, the court may permit him to resign his trust if he first settles his accounts and delivers [~~over~~] the estate as [~~by~~] the court *directs* [~~directed~~]. In either case, or when from any cause there is a vacancy in the office of guardian, the court may appoint a guardian.

(2) The court may also remove a guardian for failing to make a settlement of his accounts as required by law, or as may be required by the court, or for failing to give additional surety when required.

Section 155. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a social worker with a graduate degree in social work. The social worker shall, whenever possible, be chosen from among employes of the cabinet for human resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS *202A.011(11)* [~~202A.010(10)~~]. If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(3).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) A determination whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of physical harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employe of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) *of this section*, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least twenty (20) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) The examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employe of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employe of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence are admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for such evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

Section 156. KRS 388.200 is amended to read as follows:

The administrator of veterans affairs, or his successor, is and shall be a party in interest in any proceeding brought under any law of this state for the appointment of a guardian or conservator for any beneficiary, who is a minor or who has been adjudged mentally disabled, *or* [~~of~~] the veterans administration on whose account benefits have been paid or are payable by said veterans administration, and the said administrator or his successor is and shall be an interested party in any court proceeding pertaining to or affecting in any manner the administration of the estate of any such beneficiary on whose account such benefits are payable or whose estate includes assets derived from benefits paid by the veterans administration, its predecessor or successor. Written notice shall be given by certified mail, return receipt requested, unless waived in writing, to the office of the veterans administration having jurisdiction over the area in which the court is located, of the time and place for hearing on any petition or pleading or in connection with any proceeding pertaining to or affecting in any manner the administration of the estate of any such beneficiary of the veterans administration. Said notice shall be deposited in the mails not less than fifteen (15) days prior to the date of such hearing or other proceedings.

Section 157. KRS 389A.010 is amended to read as follows:

(1) Notwithstanding any other statutory limitation of the jurisdiction of the district court:

(a) Any trustee, guardian, [~~committee,~~] conservator, or personal representative (hereinafter "fiduciary"), not otherwise possessing a power of sale, may move the district court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by his ward, decedent, or trust; and

(b) The district court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by the ward, decedent or trust.

(2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.

(3) Unless waived in writing, written notice of the hearing with a copy of the motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action upon all persons who have a vested or contingent interest in the property interest sought to be sold.

(a) In the case where the subject of the action is the property interest of a person under legal disability, unless waived in writing, written notice by certified mail, return receipt requested shall be given to all known adult next of kin of:

1. The nature and pendency of the action; and

2. Not less than thirty (30) days notice of the time, date and location of the hearing on the motion. At or before the hearing, the fiduciary or his attorney shall file an affidavit on personal knowledge showing

compliance with this paragraph and attaching a copy of the notice given and the original of all receipts returned.

(b) All such persons shall have standing to present evidence and to be heard at the hearing.

(4) An aggrieved party may no later than thirty (30) days from the date of the order, institute an adversary proceeding in circuit court pursuant to KRS 24A.120(2)in respect to any order affecting the right of the fiduciary to sell or mortgage. Pending the entry of a final order and expiration of the time for an appeal therefrom, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void.

(5) No proceedings under this section shall be conducted by or before a commissioner of the district court.

Section 158. KRS 402.100 is amended to read as follows:
Each county clerk shall use the following form when issuing a marriage license:

Marriage License

Kentucky ....

To any person licensed to celebrate marriages: You are hereby authorized to join together in the holy state of matrimony, according to the rites and ceremonies of your church or religious denomination and the laws of the Commonwealth of Kentucky .... and .....

Given under my hand, as clerk of .... court of .... County (or City), this .... day of ...., 19...

.... Clerk.

....

Marriage Certificate

Kentucky: In the clerk's office of the ....

court for the County (or City) *of* ....
Date of marriage ....
Place of marriage ....
Full names of parties ....

Age of husband .... years. Condition (single, widowed or divorced) ....

Age of wife .... years. Condition (single, widowed or divorced) ....
Race ....
Husband's place of birth ....
Residence ....
Wife's place of birth ....
Residence ....
Name of parents ....

Husband ....

and ....

Wife ....

and ....
Occupation of husband ....

Given under my hand this .... day of ...., 19...

.... Clerk.

....
....

Certificate of Time and Place of Marriage

I, ..., a .... of the .... church (or religious order), do certify that on the .... day of ...., 19.., at ...., Kentucky, under authority of the above license, I united in marriage the persons named and described therein. I qualified and gave bond according to the law authorizing me to celebrate the rites of marriage in the County (or City) of ...., *Commonwealth* [~~State~~] of Kentucky.

Given under my hand this .... day of ...., 19...

....(Person who performed ceremony, sign here.)

Certificate of Person Performing Marriage Ceremony
(to be returned and delivered to the parties married)

I, ..., a .... of the .... church (or religious order), do certify that on the .... day of ...., 19.., at ...., Kentucky, under authority of a license issued by ...., Clerk of .... court of .... County (or City), *Commonwealth* [~~State~~] of Kentucky, dated the .... day of ...., 19.., I united .... and .... as husband and wife.

Given under my hand this .... day of ...., 19...

....(Person who performed ceremony, sign here.)

Section 159. KRS 402.190 is repealed and reenacted as 402.105 to read as follows:

A marriage license shall be valid for thirty days, including the date it is issued, and after that time it shall be invalid.

Section 160. KRS 403.710 is amended to read as follows:

(1) Any married person who has been a resident of this state for at least thirty (30) days may file a verified petition in a court of general jurisdiction seeking protective orders if he, his child or a stepchild is abused by his spouse. For the purpose of this section an "abused spouse, abused child or stepchild" is any person who has by the intentional or wanton acts of his spouse, parent or stepparent suffered bodily injury or reasonable apprehension of imminent bodily injury.

(2) The verified petition shall fully describe the abuse complained of and shall set forth:

(a) The age, occupation, and residence of each party and his length of residence in this state*;*[~~.~~]

(b) The date and place of the marriage*; and*[~~.~~]

(c) The names, ages, and addresses of the parties' minor children.

(3) The court without a jury and upon proper motion may enter such orders that are necessary for the protection of the spouses and their children or stepchildren including the following orders:

(a) Emergency protective order to restrain abuse upon good cause shown. Such order may issue ex parte in which case the court shall cause immediate notice to the adverse party that he may show cause why such order shall not remain in effect. Immediate and present danger of abuse shall constitute good cause for the purpose of this section and emergency protective orders shall be issued without bond*;*[~~.~~]

(b) Support order under the appropriate standards of KRS 403.200 and 403.210*; and*[~~.~~]

(c) Custody order under the appropriate standards of KRS [~~403.260,~~] 403.270, [~~and~~] 403.320, *and 403.420.*

(4) The court may modify any order issued in a proceeding under this section at any time and upon motion by either party may, if the jurisdictional requirements of KRS 403.140 are met, convert a proceeding under this section to an action for dissolution of marriage or legal separation. All orders issued pursuant to this section shall remain in effect until further ordered by the court.

(5) The court may waive prepayment of court costs when an action under this section could not be filed without such a waiver.

(6) The Rules of Civil Procedure apply to all proceedings under this section except as otherwise provided.

Section 161. KRS 404.010 is amended to read as follows:

(1) Marriage shall give to the husband, during the life of the wife, no estate or interest in the wife's property, real or personal, owned at the time or acquired after the marriage. During the existence of the marriage *relationship* [~~relation~~] the wife shall hold and own all her estate to her separate and exclusive use, and free from the debts, liabilities or control of her husband.

(2) A married woman's estate shall be liable for her debts and responsibilities contracted before marriage, and for such contracted after marriage, except as provided in this chapter and in KRS Chapter 392.

Section 162. KRS 406.035 is amended to read as follows:

(1) If paternity has been determined under the provisions of subsection (1) or (2) of KRS 406.021, the court shall make a written order of paternity.

(2) Such orders are to be kept separately and shall not be open for public inspection except that they may be inspected by employes of governmental agencies in the performance of their duties, all law enforcement agencies including county attorneys, Commonwealth's attorneys, district and circuit court judges, and anyone else under order of the court expressly permitting inspection. Either party to an action under this chapter or attorneys of a party to an action under this chapter shall be permitted to inspect the order entered in the action to which *he is* [~~they are~~] a party.

Section 163. KRS 407.410 is amended to read as follows:

(1) Once the issue of paternity has been determined according to the laws of this state or any other

state, the obligor cannot use the defense of non[-]paternity in an action under this chapter.

(2) If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both parties are present at the hearing or if proof required in the case indicates that the presence of either or both is not necessary, the court shall adjudicate the paternity issue; or if both parties are not present at the hearing and the proof indicates that the presence of both parties is required then the court shall continue the hearing for another date so as to obtain the presence of both parties for a trial, pursuant to KRS Chapter 406, and all remedies and defenses under that statute shall be available and apply to the trial of the paternity issue under this chapter, except that all pre-trial discovery had upon the out-of-state obligee *shall consist of* [~~by~~] written interrogatories pursuant to Civil Rule 33, by depositions upon written questions, pursuant to Civil Rule 31, by request for production of documents, pursuant to Civil Rule 34, or requests for admission, pursuant to Civil Rule 36, only. In no event shall the obligee be required to appear in this state, as responding state, for any pre-trial discovery.

Section 164. KRS 453.250 is repealed and reenacted as a new section of KRS Chapter 411:

Any provisions in a writing which create a debt, or create a lien on real property, requiring the debtor, obligor, lienor or mortgagor to pay reasonable attorney fees incurred by the creditor, obligee or lienholder in the event of default, shall be enforceable, provided, however, such fees shall only be allowed to the extent actually paid or agreed to be paid, and shall not be allowed to a salaried employe of such creditor, obligor or lienholder.

Section 165. KRS 453.260 is amended to read as follows:

(1) In addition to any costs which are awarded as prescribed by statute, a court shall award costs to any party which prevails by a final adjudication on the merits in any of the following:

(a) A civil action brought by the Commonwealth against the party;

(b) A civil action brought by the party against the Commonwealth to challenge the assessment or collection of taxes;

(c) A court proceeding to review an administrative review board decision, where the original administrative action was brought by the Commonwealth against the party.

(2) The court in its discretion may deny the award provided for in this section, or may reduce the award, if it finds that:

(a) During the course of the proceeding the prevailing party unduly and unreasonably protracted the final resolution of the matter; or

(b) The reason that the party other than the Commonwealth has prevailed is an intervening change in the applicable statutes, regulations or case law; or

(c) The prevailing party refused an offer of civil settlement which was at least as favorable to the party as the relief ultimately granted; or

(d) The position of the Commonwealth was substantially justified or a special circumstance would make an award unjust provided, however, that the burden of proof of substantial justification or special circumstance shall rest with the Commonwealth.

(3) A party may apply pursuant to the applicable Rules of Civil Procedure for an award of attorney fees and other expenses authorized under this section and shall include as part of the application evidence of the party's eligibility for the award and the amount sought, including an itemized and attested statement from the attorneys and experts stating the actual time expended in representing the party and the rate at which the fees were computed. The party shall also allege in such application that the Commonwealth acted without substantial justification.

(4) The court shall base any award of fees as provided in this section on prevailing market rates for the kind and quality of services furnished, except that:

(a) An expert is not eligible for compensation at a rate in excess of the prevailing rate of compensation for similar experts paid by the Commonwealth;

(b) The award of attorney fees may not exceed the amount which the prevailing party has paid or has agreed to pay the attorney or a maximum amount of forty dollars ($40.00) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding involved, justifies a higher fee;

(c) No award shall be greater than ten thousand dollars ($10,000) to each party except that no award shall be made to any party who voluntarily intervenes in any such action.

(5) This section does not:

(a) Apply to an action arising from a proceeding before the Commonwealth in which the role of the Commonwealth was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent, or to adjudicate a dispute or issue between private parties or to establish or fix a rate. As used in this subsection, monetary benefit or its equivalent shall not include a license, permit, charter or similar instrument that the Commonwealth may require to engage in a business, profession or similar activity;

(b) Apply to proceedings brought by the Commonwealth pursuant to KRS Chapters 218A, 431 to 439, and 500 to 534;

(c) Apply to proceedings involving eminent domain, foreclosure, collection of judgment debts or proceedings in which the Commonwealth is a nominal party;

(d) Personally obligate any officer or employe of the Commonwealth for the payment of an award entered under this section; *and*

(e) Apply to proceedings brought pursuant to KRS Chapters *18A* [~~18~~], 209, 342 and KRS *199.380 to 199.590 or 208C.100(2) and (3)* [~~199.011 to 199.630~~].

Section 166. KRS 520.015 is amended to read as follows:

(1) A person is guilty of attempting to escape from the penitentiary when he:

(a) Conceals himself within the walls of the penitentiary; or

(b) Attempts to scale the enclosure surrounding the penitentiary; or

(c) Flees from whatever bounds he may be assigned, whether under guard or as a trusty; or

(d) Escapes from a locked cell, dormitory, hospital or other lockup in the penitentiary; or

(e) Escapes from one part of the penitentiary to another; or

(f) Does any other act in furtherance of an escape from the penitentiary; or

(g) Does any act or omission constituting criminal attempt under KRS 506.010.

(2) Attempting to escape from the penitentiary is a Class D felony.

(3) No penalty provision of KRS *506.010* [~~506.020~~] shall apply to an offense committed under this section.

Section 167. KRS 7.320 is amended to read as follows:

(1) The legislative research commission or a subcommittee authorized by it shall study and examine expenditures of state agencies. The commission may organize and adopt rules for the conduct of its business and do whatever else it considers necessary or advisable to carry out the purposes of KRS 7.310 to 7.380.

(2) The commission may adopt rules and prescribe procedures for the conduct of its affairs.

(3) The commission or any member thereof or any employe duly authorized by the commission or the chairman thereof may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and have the deposition of witnesses taken in the manner prescribed by law for taking depositions in civil actions. If a person disobeys or refuses to comply with a subpoena, or if a witness refuses to testify to a matter regarding which he may be lawfully interrogated, the Franklin Circuit Court may on application of the commission compel obedience by proceedings for contempt in the same manner as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the commission by its order, other than an officer or employe of the state, is entitled to the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the *co-chairmen* [~~chairman~~] of the commission.

Section 168. KRS 18A.355 is amended to read as follows:

(1) An annual increment of not less than five percent (5%) of the gross annual salary or wages of each state employe shall be granted to each employe.

(2) The biennial budget report submitted to the general assembly under KRS *48.110, 48.180 and 48.185* [~~45.040~~] shall include a request for the amount of the annual increment expressed as a percentage of each employe's gross salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employes. The financial plan enacted under the provisions of KRS *48.300 and 48.500* [~~45.050~~] shall contain the annual increment expressed as a percentage of each employe's gross salary or wages, and the total appropriation needed to fund the annual increment.

Section 169. KRS 21.450 is amended to read as follows:

(1) The benefits provided by KRS 21.350 to 21.510 to be paid shall be funded through contract with a reputable life insurance company authorized to do business in this state, or through investment and reinvestment of funds in securities which, at the time of making the investment, are by law permitted for the investment of funds by fiduciaries in this state, or through a combination of such methods. To the extent that funding is provided through insurance contract, no contributions, payments or premiums shall be subject to any tax on insurance premiums or annuity considerations. The *investment committee for the* judicial retirement *fund* [~~board~~] shall be trustee of any and all funds contributed or appropriated to the retirement system, and shall have sole authority to make insurance contracts or investments.

(2) The board members or any investment adviser shall discharge their duties with respect to the funds of the retirement system solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with the laws, regulations and other instruments governing the funds.

Section 170. KRS 29A.030 is amended to read as follows:

(1) The chief circuit judge for each county shall, not later than the first week of October of each year, appoint three (3) jury commissioners for the county to prepare a list of prospective jurors for the following

year.

(2) Each jury commissioner shall be a citizen of the United States, eighteen (18) years of age or older and a resident of the county, and shall not be a party to any action pending in the Court of Justice, nor shall he hold any other public office or office in a political party.

(3) The compensation of the jury commissioners appointed under this section shall be twenty-five dollars ($25) for each day of ordered service. Each jury commissioner shall, in addition, be reimbursed for his actual and necessary expenses incurred in the performance of his duties under this chapter.

(4) Each jury commissioner shall serve for a term of one year and may not succeed himself.

(5) The duties of the jury commissioners shall be to:

(a) Cause the master jury list to be compiled;

(b) Select names of prospective jurors from the master jury list, cause them to be placed in clear plastic capsules, and cause the capsules to be placed in the jury wheel;

(c) Deliver the wheel containing the names of prospective jurors to the circuit clerk; and

(d) Deliver the key to the wheel to the chief circuit judge or another judge designated by him.

(6) The jury commission shall meet at such times and places as may be designated by the chief circuit judge.

(7) The meetings of the jury commissioners will not be open to the public.

(8) If a commissioner cannot *complete* [~~serve without completing~~] his service, the chief circuit judge may appoint a person of like qualifications in his place.

Section 171. KRS 31.240 is amended to read as follows:

In the area of relation of local programs to the state program the following are permitted:

(1) Each county or counties in a district may compensate district advocates *appointed pursuant to KRS 31.170,* under their own employ at rates greater than the state district advocate but must pay from their own funds all amounts in excess of the state contribution.

(2) Each county or counties in a district may adopt their own plan of aid to the indigent provided all plans in a district, viewed as a whole, are approved by the office for public advocacy.

(3) Each county or counties providing for assigned counsel may compensate them at rates provided for in KRS 31.170; however, the state contribution to such compensation shall not be greater than is provided for by KRS 31.070. The county or counties shall be obligated to pay and shall pay all amounts in excess of the state contribution. No county shall be required to pay the maximum amounts provided for in KRS 31.170 unless the amounts be approved by the circuit judge.

Section 172. KRS 91.200 is amended to read as follows:

(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation or profession and the using, holding or exhibiting of any animal, article or other thing. License fees on a business, trade, occupation or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on (a) salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city, (all of such being hereinafter collectively referred to as "wages"), and (b) the net profits of all businesses, professions or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits"). Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training, or in any other case where the city is prohibited by statute from imposing a license tax.

(2) The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1 1/4%).

(3) License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

(4) Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.

(5) The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to (a) the purchase of rights of way for highways, expressways and the widening of existing streets, (b) the purchase of lands for park, recreational and other governmental facilities and for public off-street parking facilities, (c) the purchase, construction, reconstruction, renovation or remodeling of municipal buildings, and facilities, (d) the replacement of machinery, wires, pipes, structural members or fixtures and

other essential portions of municipal buildings, (e) the initial equipment of any newly-acquired facility wherein any essential governmental function of the municipality may be located or carried on, (f) the purchase and installation of traffic control devices and fire alarm equipment, (g) the reconstruction and resurfacing, but not routine maintenance, of streets and other public ways, (h) the acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment, and, (i) engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan [~~or plans authorized in KRS Chapter 93~~].

(6) Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

(7) Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 173. KRS 91A.040 is amended to read as follows:

(1) Each city, except a city of the sixth class, and except as provided in KRS *91A.045* [~~91A.041~~], shall, as soon as practicable and in no event later than two hundred seventy (270) days after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant.

(2) Each city of the sixth class, except cities having staggered terms under the provisions of KRS 83A.110, shall upon the expiration of the terms of office of its legislative members, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. Those cities of the sixth class having staggered terms under the provisions of KRS 83A.110 shall, upon the expiration of the terms of office of legislative body members elected in odd numbered years, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. Such audits shall be completed as soon as practicable and in no event later than two hundred seventy (270) days from the expiration of the terms of office of the aforementioned legislative body members.

(3) Each city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The auditor be employed to examine the general purpose financial statements of all governmental proprietary and fiduciary funds of the city;

(b) All audit information be prepared in accordance with generally accepted governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(c) The auditor prepare a typewritten or printed report embodying the general purpose financial statements and his opinion and statements relating thereto;

(d) The auditor express an overall opinion as to whether the general purpose financial statements present fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting;

(f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the auditor of public accounts upon request of the city or the auditor of public accounts, and the auditor of public accounts shall have the right to review the certified public accountant's work papers upon request.

(4) Within ten (10) days of the completion of an audit, and its presentation to the city legislative body pursuant to paragraph (2)(e) of this section, each city shall forward three (3) copies of the audit report to the finance and administration cabinet for information purposes. The cabinet shall forward one (1) copy of the audit to the legislative research commission to be used for the purposes of KRS 6.955 to 6.975.

(5) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the legislative research commission necessary to carry out the purposes of KRS 6.955 to 6.975.

(6) Upon completion of an audit, each city may elect to publish the auditor's report in accordance with subsection (6) of this section, or publish a financial statement in accordance with subsection (7) of this section. Notwithstanding the election of subsection (6) or (7) of this section, the city shall within ninety (90) days after the close of the fiscal year, cause to be published in a newspaper qualified under KRS 424.120 a legal display advertisement of not less than eight (8) column inches that the statement required by KRS 424.220 has been prepared and that copies have been provided to each local newspaper of general circulation, each news service, and each local radio or television station which has on file with the city a written request to be provided such statement.

(7) If the city elects to publish the auditor's report prepared in accordance with this section in lieu of the financial statement required by KRS 424.220, it shall publish such report, together with the general purpose financial statements of the city, which shall include the combined balance sheets, combined statements of revenues, expenditures or expenses, and changes in fund balances, retained earnings, or

financial position for each fund of the city, and notes to such general purpose financial statements, in accordance with KRS Chapter 424. In addition, the advertisement shall contain a statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of such statement.

(8) If the city, other than a city of the first or second class or urban-county government, elects to publish the financial statement prepared in accordance with KRS 424.220 in lieu of publishing the auditor's report, it shall, within sixty (60) days after the completion of the audit, publish such statement in accordance with KRS Chapter 424.

(9) Any city of the fifth or sixth class may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.

(10) Any person who violates any provision of this section shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), in the discretion of the court, which may be recovered only once, in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

Section 174. KRS 92.281 is amended to read as follows:

(1) Cities of all classes are authorized to levy and collect any and all taxes provided for in section 181 of the constitution of the Commonwealth of Kentucky, and to use the revenue therefrom for such purposes as may be provided by the legislative body of the city.

(2) Nothing in this section shall be construed to repeal, amend or affect in any way the provisions of KRS 243.070.

(3) This section shall not in any wise repeal, amend, affect or apply to any existing statute exempting property from local taxation or fixing a special rate on proper classification or imposing a state tax which is declared to be in lieu of all local taxation, nor shall it be construed to authorize a city to require any company that pays both an ad valorem tax and a franchise tax to pay a license tax.

(4) This section shall also be subject to the provisions of KRS 91.200 in cities of the first class having a sinking fund and commissioners of a sinking fund [~~as prescribed by KRS 91.130~~].

(5) License fees on businesses, trades, occupations or professions may not be imposed by a city of the sixth class at a percentage rate on salaries, wages, commissions or other compensation earned by persons for work done or services performed within said city of the sixth class nor the net profits of businesses, professions, or occupations from activities conducted in said city of the sixth class.

Section 175. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the department of revenue shall cause to be listed for taxation all property omitted by the property valuation administrators, *county* board of *assessment appeals* [~~supervisors~~], department or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the district court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the department of revenue making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 176. KRS 132.470 is amended to read as follows:

The property valuation administrator shall assess his own property and that of his deputies, and shall be governed by the laws applicable to the assessment of the property of other taxpayers. The *county* board of *assessment appeals* [~~supervisors~~] shall review the assessment of the property of the property valuation administrator and his deputies.

Section 177. KRS 141.065 is amended to read as follows:

(1) For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.

(2) There shall be allowed as a credit for any taxpayer against the tax imposed by this chapter for any taxable year, an amount equal to one hundred dollars ($100) for each person hired by the taxpayer, provided such person has been classified as unemployed by the *department* [~~bureau~~] for social insurance of the [~~department for~~] human resources *cabinet*, and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and further provided that such person has remained in the employ of the taxpayer for at least *one hundred eighty* (180) consecutive days during the taxable year in which the taxpayer claims the credit.

(3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:

(a) A person for whom the taxpayer receives federally funded payments for on-the-job training; or

(b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of section 267(c) of the code; or

(c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or

(d) To any person who is a dependent of the taxpayer as described in code section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate of trust.

(4) For purposes of this section, all employes of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employe qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to such term by code section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code section 1563.

(5) For purposes of this section, all employes of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employe qualified thereunder be claimed more than once for any taxable year.

(6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by this chapter.

(7) In the case of an electing small business corporation, the amount of the credit determined under this section for any taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of the taxable year, and any person to whom such an amount is so apportioned shall be allowed, subject to code section 53, a credit under subsection (2) of this section for such amount.

(8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code section 53, a credit under subsection (2) of this section for such amount.

(9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

Section 178. KRS 157.270 is amended to read as follows:

If in any district there are exceptional children not able even with the help of transportation to be assembled in a school, instruction shall be provided in the child's home or in hospitals or sanitoria. Exceptional children so instructed may be counted under the provisions [~~of subsection (1)~~] of KRS 157.230, counting, however, a minimum of two (2) visits a week with a minimum of one (1) hour of instruction per visit, by a teacher provided by the board of education as equivalent to the attendance of one (1) child five (5) days in school.

Section 179. KRS 212.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of subsection (1) of KRS 212.210 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) and each day's continuance of the nuisance, source of filth or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Any person who violates KRS 212.715 or any rule or regulation adopted by any city, county, or city-county board of health, except as otherwise provided by subsection (3) of this section for counties containing cities of the first class, shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100) for each day the violation continues.

(3) The violation of any health regulation promulgated by the city-county board of health or of any order made by the board under KRS 212.350 to 212.620, directing the abatement of a nuisance, source of filth or cause or probable cause of sickness, is hereby declared to be a misdemeanor, and any person, firm or corporation, or member of a firm or officer or director of a corporation, upon conviction thereof shall be fined not less than five dollars ($5.00) nor more than one hundred dollars ($100) for each such offense. If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor.

(4) Any physician who fails to comply with the provisions of KRS 212.343, upon conviction thereof shall be fined not more than five hundred dollars ($500).

(5) Failure to procure the informed consent of those required to give their consent pursuant to KRS 212.345, prior to performing a nontherapeutic sterilization shall be punishable by imprisonment in the county jail not to exceed one year or a fine not to exceed one thousand dollars ($1,000), or both.

(6) Any physician violating KRS 212.347 shall be imprisoned in the county jail not to exceed one (1) year or *shall pay* a fine not to exceed one thousand dollars ($1,000), or both.

Section 180. KRS 213.160 is amended to read as follows:

(1) The superintendent, manager or other person in charge of any institution, public or private, to which persons resort for treatment of diseases or confinement, or are committed by process of law, shall, at the time of admission of any person to the institution, make a record of all the personal and statistical particulars relative to that person that are required in the form of the certificate provided for by this chapter, as directed by the cabinet for human resources. In case of persons admitted or committed for medical treatment of disease, the physician in charge shall specify, for entry in the record, the name of the disease and where, in his opinion, it was contracted. The personal particulars *shall be obtained* from the individual himself, if practicable, and if not they shall be secured in as complete a manner as possible from relatives, attending physicians and midwives.

(2) Institutions specified in subsection (1) shall prepare and forward a report on the first day of each week to the county health department, listing all births and deaths occurring during the preceding week. The birth list shall specify the date of birth, the name of the father and the maiden name of the mother. The death list shall specify the name of the deceased, the date of death, and the name of the funeral director removing the body for burial. The cabinet for human resources shall furnish each such institution with necessary forms for making such reports.

Section 181. KRS 216.813 is amended to read as follows:

(1) The authority may provide for the issuance of revenue bonds to pay all or any part of the cost of any projects undertaken pursuant to an agreement and lease. The principal and interest on such bonds are payable solely from the funds provided for such payment. Any issue may be in one or more series and any such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest at such rate or rates not exceeding six percent (6%) per annum, shall mature at such time or times not exceeding forty (40) years from their date or dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth or at the office of the finance and administration cabinet. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the secretary of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of KRS 216.800 to 216.853 have all the qualities and incidents of negotiable instruments under the uniform commercial code, KRS Chapter 355. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds in such manner, either at public or private sale and for such price as it may determine will best effect the purposes of KRS 216.800 to 216.853, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six percent (6%) per annum computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computations the amount of

any premium to be paid on redemption of any bonds prior to maturity.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue notes or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of KRS 216.800 to 216.853 without obtaining the consent of any cabinet, *department,* division, commission, board, [~~department~~] or agency of the Commonwealth, and without any proceedings or any other conditions or things, except as specifically required by KRS 216.800 to 216.853. KRS 216.800 to 216.853 will supersede KRS 56.450 in regard to the sale of revenue bonds by this authority.

Section 182. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the environmental quality commission;

(6) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(7) "Cabinet" means the natural resources and environmental protection cabinet;

(8) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(9) "District" means an air pollution control district as provided for in KRS Chapter 77;

(10) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(11) "Generator" means any person, by site, whose act or process produces hazardous waste;

(12) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(13) "Post-closure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste or hazardous waste treatment, storage or disposal facility following closure of the facility;

(14) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the

Commonwealth or a political subdivision of the Commonwealth;

(15) "Recovered material" means waste material and byproducts which have been recovered or diverted from waste, but does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

(16) "Recycling" means any treatment process for the reclamation of material or energy from waste;

(17) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(18) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(19) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(20) "Waste [~~disposal~~] site or facility" means any place where waste is managed, processed or disposed of by incineration, landfilling or any other method;

(21) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(22) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(23) "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(24) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 stat. 923);

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, as amended (68 stat. 923);

(25) "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.115 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (PL 94-580);

(26) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(27) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes;

(28) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water;

(29) "NPDES" means National Pollutant Discharge Elimination System;

(30) "Manifest" means the shipping document originated and signed by the generator, used in a management control system to trace the movement of hazardous wastes from generation to final disposal;

(31) "Open dump" means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the cabinet which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act of 1976, as amended

(PL 94-580), and which is not a facility for disposal of hazardous waste;

(32) "Solid waste management" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a cabinet approved county or multi-county solid waste management plan;

(33) "Solid waste management area" or "area" means any county or group of counties so designated by the cabinet by approval of the local solid waste management plan;

(34) "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise.

Section 183. KRS 224.037 is amended to read as follows:

The cabinet is hereby designated as the water pollution agency for this state and for any city, county, or district, or authority within this state for all purposes of the water pollution control act (Public Law 80-845 approved June 30, 1948), as amended, as air pollution agency for this state for all purposes of the federal air quality act (Public Law 90-148, approved November 21, 1948), as amended, and as solid waste agency for this state for all purposes of the federal solid waste disposal act (Public Law 89-272, approved October 20, 1965), as amended, and as management agency for solid waste and hazardous waste for purposes of the resource conservation and recovery act *of 1976, as amended,* (*PL* [~~Public Law~~] 94-580[~~, approved October 21, 1976~~]), and as the surface mining agency for this state for all purposes of the federal surface mining control and reclamation act (Public Law 95-87, approved August 3, 1977), as amended. The cabinet may take all action necessary or appropriate to secure to this state and all cities, counties, districts, and authorities within this state the benefits of such federal acts.

Section 184. KRS 224.045 is amended to read as follows:

The environmental quality commission shall have the power, duty and authority to:

(1) Establish such advisory committees as may be necessary and convenient.

(2) Advise the secretary on any matter within his responsibility which it deems necessary.

(3) Advise the governor on any matter covered by the provisions of *this chapter* [~~Acts 1972 (1st Ex. Sess.), ch. 3~~].

(4) Serve as a working public forum for the exchange of views, concerns, ideas, information, and recommendations relating to the quality of the natural environment.

(5) Recommend adoption or rejection by a majority of its membership present and voting of any proposal by the cabinet to adopt, modify or revoke:

(a) Any positions proposed to be taken by the cabinet on behalf of the state before interstate and federal agencies or federal legislative bodies on matters relating to or affecting the quality of the environment of the state;

(b) Any rule or regulation pertaining to the procedural aspects of hearings, appeals, the filing of reports, the issuance of orders, the issuance of permits, and the application for and the granting of exemptions; or

(c) Any procedures for the financial assistance grants proposed to be given to municipal, regional, county, or state organizations for environmental purposes.

(6) Recommend adoption or rejection after public hearing by a majority of its membership present and voting of any proposal by the cabinet to adopt, modify, or revoke:

(a) Any comprehensive environment quality plan, program or policy proposed for adoption as a state plan or policy pertaining to an environmental management activity; or

(b) Any rule or regulation pertaining to the prevention, abatement, and control of existing or threatened air or water pollution, disposal of waste, control of noise, or the use of air, land, or water resources, or strip mining and reclamation.

(7) Establish an advisory committee on noise control, which shall consist of a sound engineer, an audiologist, and one representative from each of the following: transportation industry, manufacturing industry, labor, citizenry, and the general assembly. Such members shall be appointed with the approval of the secretary, who shall be an ex officio member.

Section 185. KRS 224.075 is amended to read as follows:

(1) In granting an exemption the cabinet may impose such conditions as *this chapter* [~~Acts 1972 (1st Ex. Sess.), c. 3~~] may require. If the hardship complained of consists solely of the need for a reasonable delay in which to correct a violation of *this chapter* [~~Acts 1972 (1st Ex. Sess.), c. 3~~] or of the cabinet regulations, the cabinet shall condition the grant of such exemption upon the posting of sufficient performance bond or other security to assure the correction of such violation within the time prescribed.

(2) Any exemption granted pursuant to the provisions of this section shall be granted for such period of time, not exceeding one (1) year, as shall be specified by the cabinet at the time of the grant of such exemption, and upon the condition that the person who receives such exemption shall make such periodic progress reports as the cabinet shall specify. Such exemption may be extended from year to year by the cabinet, but only if satisfactory progress has been shown.

Section 186. KRS 224.842 is amended to read as follows:

(1) No person shall establish, construct, operate, maintain, or permit the use of a waste [~~disposal~~] site or facility without first having obtained a permit from the cabinet to establish, construct, maintain, operate or permit the use of the waste [~~disposal~~] site or facility pursuant to rules and regulations promulgated by the cabinet.

(2) In counties containing cities of the first class, no permit shall be issued for a facility for the land disposal of solid waste as defined in KRS 224.005 not in existence on July 15, 1982 if such facility is located within one (1) mile of any incorporated area.

Section 187. KRS 224.844 is amended to read as follows:

(1) The cabinet shall promulgate regulations which establish standards for the operator of any waste [~~disposal~~] site or facility or portion thereof, whether publicly or privately owned, requiring such operators to do the following:

(a) Attend a training session concerning the operation of the appropriate type waste [~~disposal~~] facility conducted by the natural resources and environmental protection cabinet;

(b) Indicate sufficient skill and competency for proper operation of the waste [~~disposal~~] site by adequate performance on an examination prescribed by the natural resources and environmental protection cabinet;

(c) Pay a reasonable fee related to the cost of conducting training and certification sessions to be utilized to defray the cost of conducting the sessions; and

(d) Renew the certificates of competence at reasonable intervals.

(2) No person shall authorize or allow any person who does not hold a certificate issued pursuant to subsection (1) of this section to have primary responsibility for the operation of any waste [~~disposal~~] site or facility or portion thereof.

Section 188. KRS 224.855 is amended to read as follows:

(1) No permit shall be issued until a complete application has been submitted to and approved by the cabinet and notice of the application for a waste [~~disposal~~] site or facility has been published at the expense of the applicant in a manner reasonably calculated to inform that portion of the public which is most likely to be affected by the operation of the proposed waste [~~disposal~~] site or facility. The publication shall take place after the cabinet has made a preliminary determination of the application.

(2) At a minimum, publication shall be made at least once by advertisement in a daily or weekly newspaper of general circulation in the locality where the proposed site is to be located.

(3) The contents of the public notice of an application for a waste [~~disposal~~ site or facility shall include the following:

(a) The name and address of the applicant;

(b) A brief description of the activity for which a permit is being sought;

(c) A description of the proposed location;

(d) The name and address of this cabinet; and

(e) The following statement: "Any person who may be aggrieved by the issuance of a permit for this proposed waste [~~disposal~~] site or facility may file with the cabinet a petition which sets forth the grounds of the objection and demand a hearing pursuant to KRS 224.081(2)." Such hearing shall be held within the county where the waste [~~disposal~~] site or facility is proposed.

(4) No permit shall be issued until at least thirty (30) days have expired following publication of the application. The applicant for a permit must establish the date of publication by a verified affidavit from the newspaper which publishes the advertisement. If a hearing is requested, no permit shall be issued prior to a completed hearing. In the case of hazardous waste landfills and other sites or facilities for the land disposal of hazardous waste no permit shall be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to subsection (5) of this section.

(5) The fiscal court of the county, urban-county government, or governing body of an incorporated municipality wherein a hazardous waste landfill or other site or facility for the land disposal of hazardous waste is proposed, shall conduct a public hearing after public notice has been given in accordance with KRS Chapter 424 and shall vote to approve or disapprove the hazardous waste landfill or other site or facility for the land disposal of hazardous waste within thirty (30) days after the hearing described in subsections (3) and (4) of this section. If no hearing is requested under the provisions of subsections (3) and (4) of this section, the fiscal court, urban-county government, or governing body of an incorporated municipality shall conduct such public hearing and vote to approve or disapprove the hazardous waste landfill or other site or facility for the land disposal of hazardous waste within sixty (60) days following publication of the application. In making a determination the fiscal court, urban-county government, or governing body of an incorporated municipality shall consider the social and economic impacts of the proposed hazardous waste landfill or other site or facility for the land disposal of hazardous waste on the affected community, including changes in property values, community perception and other psychic costs; costs and availability of public services, facilities and improvements required to support the landfill or other site or facility and protect public health, safety and the environment; and the relationship of the proposed hazardous waste landfill or other site or facility for the

land disposal of hazardous waste to local planning and existing development. After a fiscal court or urban-county government or governing body of an incorporated municipality has voted to approve or disapprove a hazardous waste landfill or other site or facility for the land disposal of hazardous waste, the court, urban-county government, or governing body of an incorporated municipality shall so notify the cabinet in writing within ten (10) days. If a hazardous waste landfill or other site or facility for the land disposal of hazardous waste is disapproved by the court, urban-county government, or governing body of an incorporated municipality, the reasons for disapproval shall be set forth clearly and concisely, and so recorded in the minutes. No permit shall be issued by the cabinet if a fiscal court, urban-county government or governing body of an incorporated municipality disapproves the hazardous waste landfill or other site or facility for the land disposal of hazardous waste in the manner prescribed herein.

(6) The provisions of subsection (5) of this section shall not apply to a proposed regional integrated waste treatment and disposal demonstration facility.

Section 189. KRS 224.862 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky hereby finds, determines, and declares as follows:

(1) That technological progress and increases in the amounts of manufacturing are continuing to result in increasing quantities of hazardous waste being generated and prohibiting the generation of hazardous waste would result in a competitive economic disadvantage for the Commonwealth;

(2) That the Commonwealth is the site of much improper and inadequately regulated handling, treatment, transportation, storage, and disposal of hazardous waste which presents a threat to the public health, safety, and welfare and the environment;

(3) That by the enactment by the Congress of the United States of the resource conservation and recovery act of 1976, *as amended* (*PL* [~~Public Law~~] 94-580), the generation, transportation, treatment, storage, recycling, and disposal of hazardous waste has been determined to be a matter of national importance, recognizing that hazardous waste presents, in addition to the problems generally associated with nonhazardous waste, special dangers to health and requires a greater degree of regulation than does nonhazardous waste;

(4) That the primary responsibility for proper hazardous waste management rests with the generators, transporters, treaters, storers, recyclers, and disposers of hazardous waste, subject to rules, regulations, guidelines, and standards promulgated by the natural resources and environmental protection cabinet and also subject to registration or permitting by the cabinet for the purpose of effectuating safe and proper management at all steps in the hazardous waste cycle;

(5) That the participation of the private sector and the interested public in any aspect of hazardous waste management not expressly reserved as state or federal authority as set forth in KRS 224.864 to 224.874 or other statutes is encouraged, moreover, it is preferable for hazardous waste management functions to be performed by the private sector when such is in the best interest of the public and conforms with the policies and provisions set forth in KRS 224.864 to 224.874;

(6) That as a matter of policy the Commonwealth in encouraging the development of hazardous waste management facilities should place a priority on environmentally sound alternatives to the land disposal of hazardous waste such as process changes, waste reduction, resource recovery and recycling, destruction, or treatment to render the waste nonhazardous; and

(7) That as a result of the conditions described in the foregoing findings, the problems of hazardous waste generation, transportation, treatment, storage, recycling, and disposal have become a matter of extreme state concern necessitating action by the general assembly to protect the public health, safety, and welfare and the environment of the Commonwealth.

Section 190. KRS 224.864 is amended to read as follows:

(1) The cabinet shall promulgate regulations which establish standards for the generators of hazardous waste requiring such generators to do the following:

(a) Compile and maintain such information and record keeping regarding the quantities of hazardous waste generated, characteristics and composition of such waste and disposition of hazardous waste generated;

(b) Utilize proper labeling and containerization of hazardous waste as required by the cabinet;

(c) Utilize a manifest for each shipment of hazardous waste and assure that the facility to which the waste is designated is a permitted facility;

(d) Provide information on the general chemical composition of the hazardous waste to persons transporting, treating, storing or disposing of hazardous waste;

(e) Keep all records and copies of manifest readily available for review and inspection by the designated representative of the cabinet;

(f) Retain all records and manifest copies for a minimum of three (3) years or as required by the cabinet;

(g) Compile a periodic report of hazardous waste generated, stored, transferred, treated, disposed or transported for treatment, storage, or disposal as required by the cabinet.

(2) Any person who generates waste in this state shall make a determination as to whether or not such waste is hazardous pursuant to criteria promulgated by the cabinet, and any generator of hazardous waste shall certify that all information required in notices or reports to the department or information provided on the manifest document is factual.

(3) The cabinet shall promulgate regulations specifying the criteria by which wastes may be determined to be hazardous and based on use of these criteria maintain and update a list of wastes identified as hazardous wastes which shall be subject to the hazardous waste management provisions of KRS 224.862 to 224.874. The criteria and lists promulgated by the cabinet shall be identical to any such criteria and lists proposed or promulgated by the U. S. environmental protection agency pursuant to *the resource conservation and recovery act of 1976, as amended (PL* [~~P.L.~~] 94-580*)*. In providing for the management of hazardous waste, the cabinet shall establish classes or categories of hazardous waste reflecting the relative degree of hazard consistent with P.L. 94-580 and regulations issued pursuant thereto. Any person generating any substance which either meets the criteria or is identified as hazardous waste shall within ninety (90) days of promulgation of the regulation so notify the department.

Section 191. KRS 224.868 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.876(6), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines. Other wastes may be designated special wastes by the cabinet.

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.866 and the provisions of KRS 224.896, 224.897 and 224.2201 to 224.2215 but may be regulated by the cabinet consistent with *the resource conservation and recovery act of 1976, as amended (PL* [~~P.L.~~] 94-580*)* and regulations issued pursuant thereto unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.864(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.864(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.866 but shall not be subject to the requirements of KRS 224.855(5).

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.864, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350.

(d) The cabinet may promulgate special waste regulations that recognize the distinct differences between the category of special wastes and other hazardous and solid wastes due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, record keeping, reporting, treatment, storage and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate where appropriate and if consistent with the policies of KRS 224.864 to 224.874 any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.864 and 224.866 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.864(3) but may be regulated by the cabinet consistent with *the resource conservation and recovery act of 1976, as amended (PL* [~~P.L.~~] 94-580*)* and regulations issued pursuant thereto.

Section 192. KRS 230.350 is amended to read as follows:

Any person licensed by this commission under KRS 230.300 may be issued a license by the alcoholic beverage control board and may hold a distilled spirits and wine special temporary license and malt beverage special temporary license as provided in KRS 243.260 and 243.290. The licenses, and each of them, when issued shall be valid and effective only upon premises licensed by this commission and upon the dates and hours for which racing has been authorized by this commission.

Section 193. KRS 267.290 is amended to read as follows:

After the classification of the land and the ratio of assessment of the different classes has been confirmed by the county judge/executive , the board shall prepare an assessment roll or drainage tax duplicate, giving a description of all the land in the district, the name of the owner, so far as can be ascertained from the public records, and the amount of assessment against each tract of land. In preparing this assessment roll the board shall ascertain the total cost of the improvement, including the damages awarded to the owners of land and private ditches, the costs of the proceeding and all wages paid or to be paid, including the wages of the treasurer and employes of the board, and shall deduct any special assessment made against any railroad or highway. The remainder shall be the amount to be paid by the land benefited. This amount shall be assessed against the land according to the benefit received, as shown by the classification and ratio of assessment made by the viewers and confirmed by the court. Attached to this drainage assessment roll or filed with it shall be a statement of the cost of the work to be done, including the damages awarded to the owners of land and private ditches, the costs of the proceeding, all wages, salaries and fees, including fees to attorneys, engineers and other agents, and all other expenses, with five percent (5%) in addition to meet any unforeseen contingencies. This drainage tax roll and statement of cost shall be made in duplicate and signed by the president and secretary of the board. One (1) copy shall be filed with the secretary of the board and the other with the county clerk in *the county in* which the proceeding is pending.

Section 194. KRS 323A.040 is amended to read as follows:

(1) To obtain a license to practice landscape architecture in Kentucky an applicant must satisfactorily pass an examination as prescribed by the board, except as otherwise provided in this chapter.

(2) Every applicant for examination shall fulfill the following requirements:

(a) Must be of good moral character; and

(b) Must be at least twenty-one (21) years of age; and either

(c) Must be a graduate of an accredited landscape architecture curriculum approved by the board with at least two (2) years of professional landscape architectural experience satisfactory to the board; or

(d) *Must be* a graduate of an accredited high school or have had education equivalent thereto as determined by the board, and, in addition, at least seven (7) years varied landscape architectural experience under the supervision of a landscape architect registered under this chapter or other qualified person approved by the board.

(3) Examinations shall be given at least annually, if qualified applicants have applied, the time and place to be established by the board.

Section 195. KRS 367.819 is amended to read as follows:

(1) The purchaser of a business opportunity has the right to cancel such purchase for any reason at any time prior to midnight of the thirtieth (30th) calendar day after signing a contract for purchasing the business opportunity. In addition, the purchaser may cancel such purchase at any time for the following violations:

(a) Not providing locations as represented;

(b) Failing to deliver goods or merchandising materials as represented; or

(c) Failing to comply with KRS 367.809*(2)*[~~(1)~~].

(2) Cancellation occurs when the person gives written notice to the seller at the address stated and the notice and statement of the buyer's right to cancel provided for in subsection (1) of this section.

(3) Notice of cancellation, if given by mail, is given when it is deposited in the mail properly addressed and postage prepaid.

(4) Notice of cancellation given by the purchasers need not take a particular form and is sufficient if it indicates by form of written expression the intention of the buyer not to be bound by any contract to purchase the business opportunity.

(5) In the sale of a business opportunity the seller must present to each purchaser at the time such purchaser assumes any financial obligation with respect to the purchase of the business opportunity, a written notice and statement of the buyer's right to cancel which must:

(a) Appear under the conspicuous caption, "BUYER'S RIGHT TO CANCEL WITHIN 30 DAYS," and

(b) Contain the following statement in no smaller type than the body copy portion of the written agreement offer to purchase, or receipt: "THE PURCHASER OF THIS BUSINESS OPPORTUNITY HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH CALENDAR DAY AFTER THIS CONTRACT IS ENTERED INTO. YOU MAY CANCEL THE PURCHASE BY NOTIFYING THE SELLER THAT YOU DO NOT WANT THE BUSINESS OPPORTUNITY BY MAILING A NOTICE BEFORE ________________ TO THE SELLER AT ____________________________."

(6) Until the seller has complied with this section, the buyer may cancel the purchase of a business opportunity by notifying the seller in any manner and by any means of his intention to cancel.

(7) Within fifteen (15) days after the date of notice of cancellation by the purchaser, the seller must tender to the purchaser any payments made by him and terminate all financial obligations created in connection with the purchase of the business opportunity.

(8) Any waiver by the purchaser of a business opportunity of the rights provided in this section is null and void, and will not operate to relieve the seller of any obligation placed upon him by this section.

(9) The purchaser may not cancel a purchase of a business opportunity if the products or inventory furnished to the purchaser cannot be returned to the seller in substantially as good condition as when received by the buyer.

Section 196. KRS 386.095 is amended to read as follows:

(1) Any power which is exercisable by deed, by will, by deed or will, or otherwise, whether general or special, other than a power in trust which is imperative, is releasable by written instrument signed by the donee of the power and delivered as hereinafter provided. A power which is releasable may be released with respect to the whole or any part of the property subject to such power and may also be released in such manner as to reduce or limit the persons or objects, or classes of persons or objects, in whose favor such power would otherwise be exercisable. No release of a power shall be deemed to make imperative a power which was not imperative prior to such release, unless the instrument of release expressly so provides.

(2) Such release may be delivered to any of the following:

(a) Any person specified for such purpose in the instrument creating the power;

(b) Any trustee of the property to which the power relates;

(c) Any person, other than the donee of the power, who could be adversely affected by an exercise of the power; or

(d) The recorder of deeds of the county in which the donee of the power resides or has a place of business, or in which the deed, will or other instrument creating the power is recorded[~~, for recording in the office of such recorder~~].

Section 197. KRS 386.550 is amended to read as follows:

Every fiduciary investment company in which a trust institution or foreign trust institution is authorized by KRS 386.510 to 386.590 to own and hold corporate stock or shares, in order to qualify for such investments, shall have such corporate powers as may be granted by the Kentucky business corporation act by virtue of its incorporation under that law and shall, in addition, have the following corporate powers under its articles of incorporation and, by its articles of incorporation or its bylaws, be subject to the limitations and restrictions hereinafter set forth.

(1) The stock of any such fiduciary investment company shall be owned and held only by trust institutions and foreign trust institutions acting as ficuciaries or co-fiduciaries but may be registered in the name of the nominee or nominees of any such institution or foreign trust institution. Such stock shall not be subject to transfer or assignment except to the trust institution or foreign trust institution on whose behalf the stock is held by any such nominee or nominees, or to a fiduciary or co-fiduciary which becomes successor to the shareholder and which is also a trust institution or foreign trust institution qualified to hold such stock.

(2) A fiduciary investment company shall have no less than five directors who need not be shareholders but shall be officers or directors of trust institutions or foreign trust institutions holding stock in such fiduciary investment company; provided, however, no one trust institution or foreign trust institution shall have more than a forty percent (40%) representation on the board of directors of any fiduciary investment company.

(3) In acquiring, investing, reinvesting, exchanging, selling and managing its assets, every fiduciary investment company shall exercise the judgment and care under the circumstances then existing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the safety of their capital. Within the foregoing limitations, a fiduciary investment company may acquire and retain every kind of investment, specifically including (but not by way of limitation) bonds, debentures and other corporate obligations, corporate stocks, preferred or common, which men of prudence, discretion and intelligence acquire or retain for their own account*;*[~~,~~] provided, a fiduciary investment company shall not at any time:

(a) Invest in real estate, commodities or commodity contracts, except that a fiduciary investment company may invest in securities secured by real estate or interests therein, in securities issued by companies which deal in real estate or investments therein, and in certificates of beneficial interest issued by real estate investment trusts;

(b) Participate on a joint or joint and several basis in any securities trading account;

(c) Invest in companies for the purpose of exercising control or management;

(d) Make loans to any person or persons, except that the purchase of a portion of an issue of debt securities, convertible debt securities, debt securities with warrants, rights or options attached or other similar securities when originally issued or thereafter, of a character commonly distributed publicly shall not be considered the making of a loan;

(e) Purchase or retain the securities of any issuer if immediately after such acquisition and as a result thereof the following requirements would not be met: at least seventy-five percent (75%) of the total assets in the fiduciary investment company taken at market value are represented by (i) cash and cash items, securities issued or guaranteed by the United States or any instrumentality thereof, and (ii) other securities which, as to any one issuer, do not represent more than ten percent (10%) of the voting securities of such issuer or more than five percent (5%) of the value of the total assets of the fiduciary investment company;

(f) Act as underwriter of the securities of other issuers;

(g) Borrow money; or

(h) Engage in margin transactions or short sales, or write, put or call options for the purchase or sale of securities.

Section 198. KRS 508.040 is amended to read as follows:

(1) In any prosecution under KRS 508.010, 508.020 or 508.030 in which intentionally causing physical injury or serious physical injury is an element of the offense, the defendant may establish in mitigation that he acted under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020.

(2) An assault committed under the influence of extreme emotional disturbance is:

(a) A Class D felony when it would constitute an assault in the first degree or an assault in the second degree if not committed under the influence of an extreme emotional disturbance; or

(b) A Class B misdemeanor when it would constitute an assault in the *fourth* [~~third~~] degree if not committed under the influence of an extreme emotional disturbance.

Section 199. The following KRS sections are repealed:

7.130	Advisory committee on statute revision.
21.500	Provision for judge or commissioner who is over seventy on effective date of system.
21.520	Disposition and use of assets of former special circuit judge fund -- Segregation of funds.
91A.041	Audit exemptions.
119.086	Clerk's failure to use proper paper for ballots.
138.225	Imposition of additional tax -- Implementation and collection.
224.017	Rules and regulations.
238.010 to 238.990	Bingo licensing act.
243.888	Floor stocks.
273.060	Rights against person injuring property.
426.650	Return of indemnity bond and appraisement to court.

The Committee Amendment No. 1 to **HB 583** is as follows:

Amend printed copy of **HB 583** on page 398, by deleting line 5 in its entirety.

HB 629, AN ACT relating to the Judicial Retirement Plan, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.405 is amended to read as follows:

(1) As of July 1 *of each year, beginning with 1984*[~~, 1982~~], the board of trustees of the Kentucky judicial form retirement system shall recompute the monthly benefits of persons then receiving benefits under the judicial retirement plan, by using the same service credit rate and the same number of years of service that were used in computing the benefits then being received, but substituting, in lieu of the "final compensation" that was used in the computation of the benefit then being received, an amount equal to fifty-five percent (55%) of the final compensation of the office in which the credit was earned, for a person retiring as of *the recomputation date* [~~June 30, 1982~~]. *If the benefit currently being paid is less than the recomputed benefit, the recomputed benefit shall thereafter be paid, beginning as of the recomputation date* [~~Further, any benefit being received on July 1, 1982, that was based on former KRS 23.340 shall be increased by forty-five percent (45%) commencing as of July 1, 1982~~].

(2) [~~As of July 1, 1983, and as of July 1 of each year thereafter, the board of trustees of the Kentucky judicial form retirement system shall recompute the monthly benefits of persons then receiving benefits under the judicial retirement plan, by using the following formula: two and three-fourths percent (2.75%) times fifty-five percent (55%) of the final compensation of the office in which the retirement credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed thirty-six (36) years).~~

~~(3)~~] In making the recomputations provided for in *subsection (1)* [~~subsections (1) and (2)~~] of this section, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. [~~If the benefit as recomputed in accordance with subsection (1) or (2) of this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing annual recomputations in accordance with subsection (2) of this section.~~] For the purposes of this section, the following office equivalents shall be used: judge of former Court of Appeals - justice of Supreme Court; any position other than judge or justice that was covered by the judicial retirement system - judge of the present Court of Appeals.

Section 2. For the purpose of funding this amendment to KRS 21.405 there are appropriated to the board of trustees of the judicial form retirement system out of the general expenditure fund in the state treasury the following sums:

1984-85	1985-86
$261,200	$274,300

HB 453, AN ACT relating to the Court of Justice and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.060 is amended to read as follows:

The twenty-second judicial circuit is entitled to *seven (7)* [~~six (6)~~] judges and shall have *seven (7)* [~~six (6)~~] numbered divisions of the circuit court.

Section 2. The term of the judgeship of the circuit court created by this Act shall be concurrent with the existing term of office of judges of the circuit court. Until the next regular election of judges of the circuit court, the office created by this Act shall be filled as provided by Sections 118 and 152 of the Constitution. At the next regular election of judges of the circuit court, this office shall be filled for an entire term.

Section 3. For the purpose of funding this amendment to KRS 23A.060, there is appropriated out of the general expenditure fund in the state treasury to the court of justice for court operations and administration the following sums:

1984-85	1985-86
$93,300	$91,900

And to the board of trustees of the judicial form retirement system the following sums:

1984-85	1985-86
$7,500	$7,500

The Committee Substitute to **HB 453** is as follows:

HB 453, AN ACT relating to the Court of Justice and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.060 is amended to read as follows:

The twenty-second judicial circuit is entitled to *eight (8)* [~~six (6)~~] judges and shall have *eight (8)* [~~six (6)~~] numbered divisions of the circuit court.

Section 2. This Act shall become effective September 1, 1985.

Section 3. The term of the judgeship of the circuit court created by this Act shall be concurrent with the existing term of office of judges of the circuit court. Until the next regular election of judges of the circuit court, the office created by this Act shall be filled as provided by Sections 118 and 152 of the Constitution. At the next regular election of judges of the circuit court, this office shall be filled for an entire term.

Section 4. For the purpose of funding this amendment to KRS 23A.060, there is appropriated out of the general expenditure fund in the state treasury to the court of justice for court operations and administration the following the sum of $151,400 for 1985-86, and to the board of trustees of the judicial form retirement system the sum of $12,400 for 1985-86.

Motions, Petitions, and Communications (Continued)

Representative Farrow moved that he be recorded as voting "nay" on **HB 463.** Agreed.

Representative B. Smith moved that he be recorded as voting "yea" on **HB 463.** Agreed.

Representative Hancock moved the adoption of the Legislative Citation No. 60. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds Representative Barry Caldwell, the Gentleman from Kenton-66, for receiving one of the five Outstanding Young Man awards for 1983-84 from the Kentucky Jaycees. You were granted this prestigious award after being elected to your second term in office and proving your outstanding service to the people of the 66th Legislative District through your distinguished record of commitment. Your exemplary record demonstrates great personal sacrifices and constant efforts in continuously promoting the wwlfare of your constituents. Your contribution to the Commonwealth of Kentucky is most admirable and your leadership and influence is far reaching and most creditable. This honorable body highly commends you for your fortitude and dedication and accords proudly our esteem to "One of Our Own", Representative Barry Caldwell, the Gentlemen from Kenton-66. (Sponsored by Representative Hancock)

Representative Reinhardt moved the adoption of the Legislative Citations No. 52 through 59. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Frederick A. Stine, IV, M.D., FAAP, a distinguished and dedicated physician, for your outstanding contributions to medicine and especially your services to Campbell County where you have served as Coroner since 1963. Your humanitarian and benevolent spirit is admirably reflected in your public service demonstrated through your involvement in charitable endeavors and civil duties by serving twice as the President of the State Coroners Association, as Chairman of the Campbell County Board of Health and the Northern Kentucky Health District, as an Associate Clinical Professor of Pediatrics at the University of Cincinnati Medical School, as a member of the Northern Kentucky Chamber of Commerce and the Northern Kentucky Historical Association, your volunteer work in many years as a delegate for the Kentucky Medical Association, and as a member of St. Andrews Episcopal Church. Your exemplary and unexcelled record in your tireless efforts to serve humanity as a physician, as well as coroner, earned national attention during the Beverly Hills Disaster. Your having served honorably in the Army from 1940-46 and achieving the rank of Colonel is especially noteworthy. You have shared generously of your knowledge, time, resources and experiences for which we are sincerely grateful. This honorable body salutes you for your dedication and contribution to the welfare of others and applauds you for the great distinction that you have brought to your community and the Commonwealth of Kentucky. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends Robert M. Crouch for your laudable service as the County Extension Agent for Campbell County, Kentucky for the past thirty-eight years. Your exemplary record demonstrates great personal sacrifices and constant efforts to maintain and improve the Agricultural community of Campbell County. Your humanitarian and benevolent spirit is admirably reflected in your public service demonstrated through your involvement in the Fiscal Court, the Farm Bureau, Soil Conservation, the Alexandria Fair Board, and the A. J. Jolly Park Board. This prestigious body salutes and appauds you with profound appreciation for your dedication, contribution, and most noteworthy endeavors to your community and the Commonwealth of Kentucky. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Laura Brumbaugh, Ft. Thomas, Kentucky for your dedication in organizing, working and your financial support of the Emergency Medical Service for your community. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your benevolent and humanitarian spirit. This prestigious body salutes you for your unselfish and sacrificial service to all mankind. Your community and the Commonwealth of Kentucky are the benefactors because of your philanthropic donations. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, the Campbell County Water Rescue, and Chief Barry Trapp, Butler, Kentucky for your benevolent spirit and your excellent volunteer service in providing help in various and immediate emergencies. Your humanitarian acts, so vitatl to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of accidents and tragedies, it is comforting to know that you are available and in the line of service. This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Camp Springs Fire Department and Chief Ed See, Camp Springs, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit. This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Eastern Campbell Fire Department and Chief Pete Dougherty, California, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit. This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Melbourne Fire Department and Chief Charles Hehman, Melbourne, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit. This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Silver Grove Fire Department and Chief Dan Jones, Silver Grove, Kentucky, for your indispensable and outstanding services to your community in Fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit. This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Arnold, **HR 50;** Representative Donnermeyer, **HCR 30, HJR 46;** Representative Freibert, **HB 486, HB 492;** Representative T. Jones, **HB 33;** Representative Kidd, **HB 684;** Representative Moberly, **HR 48;** Representative Robinson, **HB 334.**

The following Floor Amendments were filed to Bills:

Floor Title Amendment to **SB 92,** by Representative Overstreet:

Amend printed copy of **SB 92,** by deleting the title and inserting in lieu thereof "AN ACT relating to inheritance tax."

Floor Amendment No. 1 to **HB 298,** by Representative Long:

Amend printed copy of Committee Substitute to **HB 298** on page 1, line 11, after "*dentistry*" by adding "*, chiropractic*";

and on page 2, line 2, after "dentistry" by adding "*, chiropractic*";

and on page 2, line 20, after "*dentistry*" by adding "*, chiropractic*";

and on page 10, line 16, by deleting the period after "days" and inserting in lieu thereof "*; or*

(d) The practice of chiropractic as defined in KRS 312.015(3)."

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, February 23, 1984.

On the roll call the vote was yeas 49-Allen, Arnold, Blevins, Caldwell, L. Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Foster, Freibert, Fryman, Hancock, Hines, Johnson, T. Jones, Kidd, Lefevers, LeMaster, Long, Mann, McBee, Nett, Noe, Noland, O'Brien, Pearman, Petty, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Yates. Nays 5-P. Clark, Gedling, Handy, Holloway, Perkins.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 23, 1984

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Don Mathis, Central Baptist Church, Corbin, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 22, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 157, SB 162, SB 182, SB 187, SB 188, SCR 10,** and **SCR 30.**

Introduction of Bills and Resolutions

HB 734, by Representative Harper: AN ACT relating to state government.

HB 735, by Representatives LeMaster and Cyrus: AN ACT relating to workers' compensation.

HB 736, by Representative Moberly: AN ACT relating to criminal records.

HB 737, by Representative Johnson: AN ACT relating to pharmacies.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HJR 74, SB 190, HB 727.**

Appropriations and Revenue: **HB 720, HB 726, HB 731.**

Banking and Insurance: **HB 721.**

Counties and Special Districts: **HB 733, HB 717.**

Education: **HB 711, HJR 71, HJR 75, HJR 76, HJR 77.**

Health and Welfare: **HB 713, HB 714, HJR 72, HJR 73.**

Judiciary-Civil: **HB 712, HB 722, HB 723, HB 724, HB 725, HB 716.**

Labor and Industry: **HB 732.**

Natural Resources and Environment: **HB 710, HB 729, HJR 70.**

State Government: **HB 718, HB 715, HB 719, HB 730, SB 156, SB 178, SB 183, HB 728.**

Transportation: **SB 106.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 156, HB 595, HB 645, SB 118.**

Energy: **HB 696.**

Transportation: **HB 439, HB 391, HB 626.**

Report of Committees

The Committee on Rules reported **HB 93, HB 170, HB 182, HB 568, HB 610, HJR 8, HB 160, HB 290, HB 389, SB 79, HB 417,** and **HB 418** have been posted for passage in Orders of the Day, February 24, 1984.

The Committee on Rules reported the following Bills have been recommitted:

HB 363, HB 426, SCR 6, and **HB 556** to the Committee on Appropriations and Revenue.

HB 384 to the Committee on Health and Welfare.

HB 588 to the Committee on Cities.

The Committee on Education reported **HB 404, HB 548,** and **HB 569** with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 404, AN ACT relating to the University of Kentucky Board of Trustees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.130 is amended to read as follows:

(1) The government of the University of Kentucky is vested in a board of trustees consisting of sixteen (16) competent citizens of Kentucky appointed by the governor, two (2) members of the teaching faculty of the University of Kentucky, one (1) member of the teaching faculty of the community college system, *one (1) member of the cooperative extension agents and specialists,* and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairman annually. The initial terms of the appointed members shall be for four (4) years and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Four (4) of the sixteen (16) appointed members shall be appointed each year. Three (3) of the appointed members shall be representative of agricultural interests, three (3) shall be alumni of the university, and ten (10) shall be other distinguished citizens of the state representative of the learned professions. The governor shall so make the appointments as to divide the representation on the board as equally as possible between the two (2) leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.

(2) The two (2) University of Kentucky faculty members shall be teaching or research members of the rank of assistant professor, or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor and above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualify. Faculty members shall be eligible for re-election, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) The faculty member representing the community college system shall be a teaching or research member at one of the community colleges. The community college faculty member shall be elected by secret ballot by members of the community college faculties. The community college faculty member shall serve for a three (3) year term and until a successor is elected and qualified. No community college shall have a faculty representative on the board of trustees for more than one (1) term in succession. The community college

faculty member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to be a member of the faculty at one of the community colleges. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original election.

(4) The member representing all cooperative extension agents and specialists (all county extension agents, area extension specialists and state specialists) shall not hold professional rank or a tenure-track position. He shall be elected by secret ballot by all cooperative extension agents and specialists who do not hold professional rank or a tenure-track position. The member representing the cooperative extension agents and specialists shall serve for a three (3) year term and until a successor is elected and qualified. No member representing the cooperative extension agents and specialists on the board of trustees shall succeed himself. The cooperative extension agents and specialists member shall be ineligible to continue to serve as a member of the board of trustees if he ceases to serve as an extension agent or specialist in Kentucky. Election to fill a vacancy shall be made for the unexpired term in the same manner as provided for original elections.

(5) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

(6)[~~(5)~~] No member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the three (3) faculty members.

(7)[~~(6)~~] The number of student and employe trustees of the University of Kentucky elected to the board shall not exceed *five (5)* [~~four (4)~~].

HB 548, AN ACT relating to teachers' tenure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.720 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; Provided, however, That any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or reaches the age of 65, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.720 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employe, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, or school business administrator, or who holds a position in which he evaluates or supervises board employes or recommends personnel for employment or discharge. The term "administrator" shall also include those assistant, associate or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

(10) The term "seniority" for the purpose of KRS 161.720 to 161.810 shall mean the length of service as a teacher in a school district beginning on the teacher's first compensable day of employment and ending

when the teacher's contract is terminated.

HB 569, AN ACT relating to school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.770 is amended to read as follows:

(1) Upon written request of a teacher or superintendent, a board of education may grant a leave of absence for a period of not more than two (2) consecutive school years for educational or professional purposes[~~, and shall grant such leave where illness, maternity or other disability is the reason for the request~~]. Upon subsequent request, such leave may be renewed by the board. A board of education may pay a sum of money equivalent to all or any portion of salary to a teacher or superintendent who has been granted leave for educational or professional purposes if the person taking said leave agrees in writing to return to employment with the board for no less than two (2) years.

(2) *Upon written request of a teacher or superintendent, a board of education may grant an unpaid leave of absence for a period of not more than two (2) consecutive school years for reasons the board may deem appropriate. Upon subsequent request, such leave may be renewed by the board.*

(3) Upon written request of a teacher or superintendent, a board of education shall grant an unpaid leave of absence for a period of not more than two (2) consecutive school years when the reason for the request is illness, disability or a personal circumstance which, in the judgment of the teacher or superintendent, requires care of an infant son or daughter under the age of four (4) years. Upon subsequent request, such leave may be renewed by the board.

(4) Without request, a board of education may grant leave of absence and renewals thereof to any teacher or superintendent because of physical or mental disability, but such teacher or superintendent shall have the right to a hearing and appeal on such unrequested leave of absence or its renewal in accordance with the provisions for hearing and appeal in KRS 161.790.

(5)[~~(3)~~] Upon the return to service of a teacher or superintendent at the expiration of a leave of absence, he *or she* shall resume the contract status [~~which he~~] held prior to such leave.

(6)[~~(4)~~] Payments to any teacher or superintendent under this section by a board of education are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school foundation program funds as established in KRS Chapter 157.

The Committee Amendment No. 1 to **HB 569** is as follows:

Amend printed copy of **HB 569,** page 1, line 5, by adding the following after the word "absence": "*as may be requested by such teacher or superintendent*"

Page 1, line 6, by removing the bracket and strikethough.

Page 1, line 7 and 8, by removing the strikethroughs in the following: "and shall grant such leave where illness", and inserting the following after the word "illness,": "*adoption or birth of an infant child*", and placing brackets before and after the word "maternity", and removing the strikethroughs in "or other disability is the reason for the request", and removing the bracket after the word "request"

Page 1, line 18, by adding the following after the word "absence": "*as may be requested by such teacher or superintendent*"

Page 1, line 21, by adding the following after the word "renewed": "*in whole or in part*"

Page 2, lines 1 through 9, by deleting all new material. Renumber all following subsections.

The Committee on Energy reported **HB 598,** with Committee Amendment attached thereto, and **HB 139,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 598, AN ACT relating to the financing of pollution control facilities and industrial buildings by cities and counties.

WHEREAS, cities and counties have validly issued commercial paper bonds and variable rate bonds pursuant to KRS 103.200 to 103.285, and it is desirable to facilitate such transaction by providing clearer guidelines therefor; and

WHEREAS, the statutory authority for previous issues of commercial paper bonds and variable rate bonds by cities and counties pursuant to KRS 103.200 to 103.285 is hereby ratified, approved and confirmed;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 103.200 is amended to read as follows:

(1) As used in KRS 103.200 to 103.285, "building" or "industrial building" means any land and building or buildings (including office space related and subordinate to any of the facilities enumerated below), any facility or other improvement thereon, and all real and personal properties, including operating equipment and machinery deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for the following or any combination thereof:

(a)[~~(1)~~] Any activity, business or industry for the manufacturing, processing or assembling of any commercial product, including agricultural, mining or manufactured products, together with storage, warehousing and distribution facilities in respect thereof;

(b)[~~(2)~~] Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, ship canals, ports or port facilities, docks or wharf facilities or harbor facilities, off-street parking facilities or of railroads, monorails or tramways, railway or airline terminals, cable television, mass communication facilities, and related facilities;

(c)[~~(3)~~] Any buildings, structures and facilities, including the site thereof and machinery, equipment and furnishings suitable for use as health care or related facilities, including without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, including housing for the aged or the infirm and all buildings, structures and facilities deemed necessary or useful in connection therewith;

(d)[~~(4)~~] Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities;

(e)[~~(5)~~] Any facilities for any recreation or amusement park, public park or theme park, including specifically facilities for the use of nonprofit entities in making recreational and cultural benefits available to the public;

(f)[~~(6)~~] Any facilities involving manufacturing and service industries which process raw agricultural products, including timber, provide value added functions, or supply ingredients used for production of basic agricultural crops and products;

(g)[~~(7)~~] Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for industrial use;

(h)[~~(8)~~] Any facilities for the furnishing of water if available on reasonable demand to members of the general public;

(i)[~~(9)~~] Any facilities for the extraction, production, grading, separating, washing, drying, preparing, sorting, loading and distribution of mineral resources, together with related facilities;

(j)[~~(10)~~] Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;

(k)[~~(11)~~] Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;

(l)[~~(12)~~] Any activity designed for the preservation of residential neighborhoods, provided that such activity receives approval of the heritage division and insures the preservation of not fewer than four (4) family units.

(m)[~~(13)~~] Any activity, designed for the preservation of commercial or residential buildings which are on the national register of historic places or within an area designated as a national historic district or approved by the heritage division.

(n)[~~(14)~~] Any activity, including new construction, designed for revitalization or redevelopment of downtown business districts as designated by the issuer.

(2) As used in KRS 103.200 to 103.285, "bonds" or "negotiable bonds" means bonds, notes, commercial paper bonds, variable rate bonds, bond anticipation notes or any other obligations for the payment of money issued by a city, county or other authority pursuant to KRS 103.200 to 103.285.

Section 2. KRS 103.210 is amended to read as follows:

(1) In order to promote the economic development of the Commonwealth, promote reconversion to peacetime economy, to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in this state, and to aid in the retention of existing industry through the

control of pollution or through conversion of energy facilities to more readily available fuels, any city or county may borrow money and issue negotiable bonds for the purpose of defraying the cost of acquiring any industrial building *or pollution control facility,* either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the city or the fiscal court of the county, or the governing body of Kentucky development finance authority, if requested by the legislative body of the city or the fiscal court of the county, as the case may be, specifying the proposed undertaking, the *maximum* amount of bonds to be *outstanding at any one time* [~~issued~~], and the maximum rate of interest the bonds are to bear. This section shall not be deemed to require, however, that such ordinance or resolution be adopted prior to interim financing of the project, if such interim financing was undertaken by the proposed lessee corporation upon the basis of discussions between the corporation and responsible officials of the issuer which were later formally ratified by the appropriate governing body of the issuer. The ordinance or resolution shall further provide that the industrial building *or the pollution control facility* is to be acquired pursuant to the provisions of KRS 103.200 to 103.285. Each such bond-authorizing ordinance or resolution shall be effective only after publication, in a newspaper authorized to publish official advertisements for the issuer, of the title to said ordinance or resolution, together with a statement signed by the clerk of the issuer setting forth the *maximum* amount of *bonds to be outstanding at any one time* [~~the issue~~], the name of the lessee corporation, and the fact that the bonds are to be retired from the proceeds of either the lease payments as set forth in KRS 103.200 to 103.285 inclusive, or the loan payments or sale payments in the event the industrial building financing transaction is carried out pursuant to a loan agreement, sale agreement or other financing agreement. No publication of the complete ordinance or resolution shall be required, but said ordinance or resolution shall be entered upon the records of the issuer and shall be available for public inspection.

(2) Kentucky development finance authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650, inclusive, shall have and possess all power and authority granted to cities and counties by the provisions of KRS 103.200 to 103.285, excluding condemnation powers under KRS 103.245, for the financing of industrial buildings. For such purposes, the terms "city," "county" and "issuer" as used in KRS 103.200 to 103.285, inclusive, shall also mean and refer to Kentucky development finance authority, any air board established pursuant to KRS 183.132 and any riverport authority established as provided in KRS 65.510 to 65.650. The power and authority granted to Kentucky development finance authority, any air board and any riverport authority shall be and constitute an additional and alternative grant of power and authority to such governmental agencies, and shall not be construed as being in derogation of any other powers vested in each of such governmental agencies.

Section 3. KRS 103.220 is amended to read as follows:

(1) The bonds may be issued to bear interest at *any* [~~a~~] rate *or rates, either fixed or variable in accordance with such method as shall be set* [~~fixed~~] by the governing body of the issuer, *shall be* payable either annually *or at shorter intervals, may be of such terms and maturities, may bear such conversion privileges, may be executed by the manual or facsimile signatures of such officers of the issuer* [~~or semiannually~~], and shall be executed in such manner *and at such time or times, or from time to time,* and be payable at such times not exceeding thirty (30) years from *the* date thereof, *or, if commercial paper, from the date of initial issuance thereof,* and at such place or places as the governing body of the issuer determines.

(2) The bonds may provide that they or any of them may be called for redemption prior to maturity under conditions *set* [~~fixed~~] by the governing body of the issuer before issuing the bonds.

(3) *(a)* Any bonds issued and outstanding hereunder may, at any time on or after the earliest redemption date provided therefor at the time of their issuance, be refunded by the issuer *or any other city, county or authority,* with the consent of the lessee, *industrial concern or utility company,* in such amount as the governing body may deem necessary to refund the principal of the bonds to be refunded, together with any unpaid interest thereon, *to create any necessary debt service reserve fund,* and to pay the costs of any improvements or additions to the project, and of any premiums, expenses and commissions required to be paid in connection therewith. Any refunding bonds issued under the authority of this section shall be payable from the revenues out of which the bonds to be refunded were payable.

(b) At the time of the initial issuance of commercial paper bonds, the issuer may designate individual officials of its governing body as agent for purposes of approving the principal amount, the interest rate, the discount, if any, and the maturity date of bonds being issued later to refund the maturing bonds; provided, however, that, at the time of the initial issuance of such bonds, the governing body of the issuer shall set the maximum principal amount, the maximum interest rate, and the maximum discount, if any, of the refunding bonds plus the final maturity date of the last issue of such refunding bonds; and provided further that the issuer shall retain the right to revoke any such agent's authority at any time and for any reason whatsoever. Individual issues of commercial paper, issued as part of a continuing financing program, may be refunded by the approvals of such agent of the issuer and separate proceedings of the issurer pursuant to KRS 103.210(1) shall not be required.

(c) At the time of issuance of variable rate bonds, the governing body of the issuer may designate individuals or institutions who in the sole judgment of such governing body have financial market expertise to

serve as agent for the issuer for establishing and changing from time to time while such variable rate bonds remain outstanding the rate of interest to be borne by and the price to be paid for the bonds; provided, however, that the rate-setting procedures and authority of each such agent shall be set forth in writing, and may include a formula or an index or indices based upon market factors, and shall be established by the issuer at the time of issuance of such bonds; and provided further that at the time of the issuance of the bonds, the governing body of the issuer shall establish the maximum interest rate to be borne by the bonds; and provided further that the issurer shall retain the right to remove or replace any such agent at any time and for any reason whatsoever.

(4) Any bonds issued and outstanding hereunder and the coupons appertaining to such bonds shall prior to the maturity or redemption date thereof be deemed to have been paid to the same extent as if they had actually been paid in cash and retired, if*:*

(a) In case any of such bonds are to be redeemed on any date prior to their maturity, the issuer of such bonds shall have given a trustee appointed for the holders of such bonds in connection with their issuance, in form satisfactory to such trustee and in conformity with the requirements of the ordinance or resolution authorizing their issuance, irrevocable instructions to give notice of redemption of such bonds to the holders thereof by publication or by other method which is satisfactory to such trustee*;*[~~,~~]

(b) There shall have been deposited with the trustee either money in an amount which shall be sufficient, or direct obligations of or obligations guaranteed by the United States of America, the principal of and the interest on which, when due, will provide money which, together with the money, if any, deposited with the trustee at the same time, shall be sufficient, to pay when due the principal and the interest due and to become due on such bonds on and prior to redemption date or maturity date thereof, as the case may be*;*[~~,~~] and

(c) In the event that such bonds are not to be redeemed within the next succeeding sixty (60) days, the issuer shall have given the trustee in form satisfactory to it irrevocable instructions to give, as soon as practicable, in a manner satisfactory to it, a notice to the holders of such bonds and coupons that the deposit required by *paragraph* (b) *of this subsection* [~~above~~] has been made with the trustee, that such bonds and coupons are deemed to have been paid in accordance with the provisions hereof and stating such maturity or redemption date upon which money is to be available for the payment of the principal of and interest on such bonds. Any deposits made under *paragraph* (b) *of this subsection* [~~hereof~~], to the extent not secured by the federal deposit insurance corporation, shall be secured by the pledging of direct obligations of or obligations guaranteed by the United States of America.

(5) It is hereby declared and determined that the issuance of any and all refunding bonds as provided herein will be for a public purpose if the legislative body of the issuer authorizing such bonds so declares in the proceedings authorizing same, it being hereby declared and determined that the ability of any domestic or foreign corporation renting or leasing any facilities financed by the bonds to cause refunding bonds to be issued will be an inducement for such domestic or foreign corporation to establish in Kentucky the facilities provided for in KRS 103.200 and will tend to further the purposes of KRS 103.200 through 103.280.

(6) No bonds shall be issued hereunder in violation of federal statutes or regulations prohibiting arbitrage profits.

Section 4. KRS 103.230 is amended to read as follows:

(1) *Notwithstanding the form or tenor, and in the absence of an express recital on the face thereof that the bond is non-negotiable, all* bonds issued pursuant to KRS 103.200 to *103.285* [~~103.280~~] shall *at all times* be *and shall be treated as, and have all the qualities and incidents of negotiable instruments for all purposes* [~~negotiable~~]. If any officer whose signature or counter signature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. The bonds shall be sold upon such terms as the city legislative body or the fiscal court of the county, as the case may be, deems best, or any contract for the acquisition of any industrial building may provide that payment shall be made in such bonds. The issuing authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine will best effect the purposes of KRS 103.230 to 103.260; Provided, however, That no private or negotiated sale shall be made unless the corporation which is contracting to lease the industrial building shall have requested in writing, addressed to the chief executive of the issuing authority, that the sale of the bonds shall be made privately upon a negotiated basis.

(2) The bonds shall be payable solely from the revenue derived from the building, and shall not constitute an indebtedness of the city or county within the meaning of the constitution. It shall be plainly stated on the face of each bond that it has been issued under the provisions of KRS 103.200 to 103.280 and that it does not constitute an indebtedness of the city or county within the meaning of the constitution.

Section 5. KRS 103.240 is amended to read as follows:

All money received from the sale of the bonds shall be applied solely for*:*

(1) The acquisition of the industrial building and any utilities or pollution control structures or equipment requisite to the use thereof*;*[~~,~~]

(2) The acquisition of pollution control facilities and the structures or equipment requisite to the use

thereof;

(3) [~~and~~] The necessary expense of preparing, printing and selling said bonds*;*

(4) The refunding of any issued and outstanding bonds whether matured or otherwise;

(5) Providing a debt service reserve fund or any other reserve funds, if necessary; [~~,~~] or

(6) To advance the payment of interest on the bonds during any portion of the first three (3) years following the date of the bonds.

Section 6. KRS 103.280 is amended to read as follows:

(1) If the city legislative body, or the fiscal court of the county, as the case may be, finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued in the same manner.

(2) Any city or county acquiring any industrial building pursuant to the provisions of KRS 103.200 to 103.280 may, at the time of issuing the bonds for such acquisition, provide for additional bonds for extensions and permanent improvements to be placed in escrow and to be negotiated from time to time as proceeds for that purpose may be necessary. Bonds placed in escrow shall, when negotiated, have equal standing with the bonds of the same issue.

(3) *A* [~~The~~] city or county may issue new bonds to provide funds for the payment of any outstanding bonds *which have or have not matured,* in accordance with the procedure prescribed by KRS 103.200 to 103.280*, whether or not that city or county was the original issuer of said bonds.* The new bonds shall be secured to the same extent and shall have the same source of payment as the bonds refunded.

Section 7. KRS 103.2101 is amended to read as follows:

(1) The industrial revenue bond oversight committee is hereby established and shall consist of eight (8) members, who shall be appointed as follows for a term of four (4) years:

(a) One (1) member shall be a member of the house of representatives, appointed by the speaker of the house of representatives;

(b) One (1) member shall be a senator, appointed by the president pro tempore of the senate;

(c) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky association of counties;

(d) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky municipal league;

(e) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky chamber of commerce;

(f) One (1) member shall be appointed by the governor from a list of two (2) nominees submitted by the Kentucky AFL-CIO;

(g) One (1) member shall be a citizen at large who is not associated with or financially interested in the business regulated;

(h) The secretary of the commerce cabinet, or his designee, shall be a member of the committee.

(2) The industrial revenue bond oversight committee is attached to the commerce cabinet for administrative and support purposes.

(3) The committee shall adopt a monthly meeting schedule and shall meet at least monthly and a majority of the members of the committee shall constitute a quorum.

(4) It shall be the duty of the committee to review only those projects authorized by *paragraphs (k), (l), (m) and (n)* [~~subsections (11), (12), (13) and (14)~~] of KRS 103.200*(1)*, and only off-street parking facilities, cable television and mass communication facilities as authorized by *paragraph (b) of* KRS 103.200*(1)*[~~(2)~~], whether by cities, counties, urban county governments, air boards, riverport authorities, or the Kentucky industrial development finance authority. Such review shall include, but need not be limited to, the following:

(a) The economic need for the project in the area.

(b) Whether the project places an unjustified competitive disadvantage on existing business in the area.

(c) If normal commercial financing is unavailable for this project or if available at what rates it must be secured and under what terms and conditions.

(d) If the project is in accord with the intent of KRS 103.200 to 103.285, this section, and KRS 103.2451.

(e) The project's economic soundness.

(5) If the committee finds that the project does not meet all of the above listed criteria it shall deny approval of the project until the objections thereto have been met.

(6) Members of the committee shall receive seventy-five dollars ($75.00) per diem and their actual and necessary expenses incurred in the performance of their duties.

(7) The committee may require the submission of testimony, project data, or any other information deemed appropriate with regard to any project submitted to it for approval.

(8) The committee, within fourteen (14) days of receiving application, shall notify the agency or unit of government proposing the issuance of bonds and the developers of the project of the date on which the

project will be considered by the committee at a public hearing. Any person may attend the hearing and may personally, or through counsel, address the committee with regard to the project and make recommendations to the committee thereon. Notice shall be given to the agency or unit of government proposing to issue the bonds and the developers of the project not less than forty-five (45) days before the date the committee has set for the hearing on the project. The agency or unit of government proposing the issuance of the bonds shall, not less than thirty (30) days before the date of the hearing, publish notice of the hearing in the manner required by KRS Chapter 424. The agency or unit of government proposing the issuance of the bonds shall require the developer of the project (if it is other than the agency or unit of government) to reimburse the agency or unit of government for the cost of the advertising required herein.

(9) The committee shall have the right to approve or disapprove any project submitted to it, and over which it has jurisdiction as described in subsection (4) of this section, and no bonds or other evidence of indebtedness for any such project shall be issued until such project has been approved by the committee.

The Committee Amendment No. 1 to **HB 598** is as follows:

Amend printed copy of **HB 598**, on page 4, line 22, after the word "*103.285*" and before the word "*bonds*" by inserting the following: "*for a pollution control facility*".

and on page 7, after line 20, and before line 21, by inserting the following: "(1) The bonds may be issued to bear interest at a rate fixed by the governing body of the issuer, payable either annually *or at shorter intervals, may be of such terms and maturities, may bear such conversion privileges, may be executed by the manual or facsimile signatures of such officers of the issuer* [~~or semiannually~~], and shall be executed in such manner and be payable at such times not exceeding thirty (30) years from date thereof and at such place or places as the governing body of the issuer determines.

and on line 21, by deleting "(1)" and inserting in lieu thereof, "*(2)*"

and on page 8, line 9, by deleting "(2)" and inserting in lieu thereof, "*(3)*"

and on line 13, by deleting "(3)" and inserting in lieu thereof, "*(4)*"

and on page 9, line 3, after the word "*bonds*" and before the "," by inserting the following: "*for a pollution control facility*"

and on line 21, after the word "*bonds*" and before the "," by inserting the following: "*for a pollution control facility*"

and on page 10, line 13, by deleting "(4)" and inserting in lieu thereof, "*(5)*"

and on page 12, line 15, by deleting "(6)" and inserting in lieu thereof, "*(7)*"

HB 139, AN ACT relating to gas pipelines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.485 is amended to read as follows:

Every has pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half (1/2) air-mile of said company's producing gas well or gas gathering pipeline, shall furnish gas service to such owner and applicant, subject to and upon the following terms, conditions and provisions, to-wit:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the public service commission.

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the public service commission or an agent thereof; and, shall conform to such

standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or applicant from any line or lines that have been held to be subject to federal jurisdiction by order of the federal energy regulatory commission or a court of competent jurisdiction. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines. *If service to any customer is terminated because of abandonment of the pipeline or line which served him the company shall, within sixty (60) days of abandonment, remove the abandoned pipeline or line, or remove a portion of it so as to render it inoperable.*

(7) Subject to the rules and regulations of the public service commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

The Committee Substitute to **HB 139** is as follows:

HB 139, AN ACT relating to gas pipelines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.485 is amended to read as follows:

Every has pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half (1/2) air-mile of said company's producing gas well or gas gathering pipeline, shall furnish gas service to such owner and applicant, subject to and upon the following terms, conditions and provisions, to-wit:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the public service commission.

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the public service commission or an agent thereof; and, shall conform to such standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or applicant from any line or lines that have been held to be subject to federal jurisdiction by order of the federal energy regulatory commission or a court of competent jurisdiction. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines. *If service to any customer is terminated because of lack of gas for a period of six (6) months in a pipeline or line which served him, the company shall remove a portion of it so as to render it inoperable.*

(7) Subject to the rules and regulations of the public service commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

The Committee on Judiciary-Criminal reported **HB 364** and **HB 631** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 364, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The transportation cabinet may, upon receipt of the written recommendation of the court in which any person has been convicted of a traffic violation, thereby causing the suspension or revocation of his operator's license, issue an occupational operator's license, except to those persons convicted of driving while intoxicated as provided by KRS 186.560(1)(b) and 189.520.

(2) No court shall recommend an occupational license unless the following evidence is established by the applicant:

(a) The person has demonstrated a need to operate a motor vehicle as an essential part of that person's livelihood, family obligation or both;

(b) The refusal to issue an occupational license would result in undue hardship to the person or his family;

(c) The essential purposes for which the person needs an operator's license;

(d) The county or counties wherein the person needs to operate a motor vehicle for an essential purpose; and

(e) The person is currently enrolled or has successfully completed rehabilitative training or aid for those violations which caused the suspension or revocation.

(3) The court shall inform the person or organization providing the training or aid that the holder of the occupational operator's license is required to receive training. In the event the holder of said license does not complete or fails to attend the training program, the person or organization shall immediately inform the cabinet, at which time said occupational operator's license shall be revoked.

(4) An occupational operator's license shall be limited in use to the operation of a motor vehicle for essential purposes as demonstrated by the court and in the county or counties the court has determined as necessary to operate a motor vehicle to accomplish said purposes.

(5) An occupational operator's license shall expire one (1) year from the date of issue and shall not be renewable except that when the suspension or revocation period exceeds one (1) year, the person may reapply to the cabinet upon expiration of the license.

(6) A person shall be eligible for only one (1) occupational operator's license during his lifetime, with the exception that it may be renewed on a continuous basis for the term of revocation or suspension, if such is for a period exceeding one (1) year.

(7) Applicants for an occupational driver's license·shall pay to the circuit clerk upon issuance of an occupational operator's license a fee of fifty dollars ($50). The clerk shall deposit in the state treasury to the credit of the general fund ten dollars ($10) and forty dollars ($40) shall be credited to a special account within the state road fund and used by the cabinet exclusively for the purposes of driver improvement training.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Any holder of an occupational operator's license who violates the restrictions or conditions of his license or is convicted of an offense which would cause suspension or revocation of a regular operator's license or convicted of an offense which would result in the assessment of three (3) or more points against his driving record shall immediately have his occupational operator's license revoked and shall be fined not less than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both.

HB 631, AN ACT relating to protective services for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.335 is amended to read as follows:

(1) The purpose of this section, KRS 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 is to provide for the identifying of any abused or neglected child; to require reports of any suspected abused or neglected child; to assure that the protective services of the state will be made available to an abused or neglected child in order to protect such a child and his siblings; to further prevent abuse or neglect; to preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care; and to provide for immediate and prompt investigation of such reports.

(2) Any physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child caring personnel, resident, intern, chiropractor, dentist, optometrist, health professional, peace officer, mental health professional or other person who knows or has reasonable cause to believe that a child is an abused or neglected child, shall report or cause a report to be made in accordance with the provisions of this section. When any of the above specified persons is attending a child as part of his professional duties, he shall report or cause a report to be made in accordance with the provisions of this section. Nothing in this section is intended to relieve individuals, agencies or organizations of their obligation to report.

(3) A report shall be made immediately by telephone or otherwise to the bureau or its delegated representative. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency. If the report is made to any agency other than the bureau, such agency shall promptly refer the report to the bureau. The report shall be followed by a written report within forty-eight (48) hours if so requested by the bureau. The bureau or its delegated representative shall upon the receipt of the initial report immediately send a report of suspected physical or sexual abuse to the appropriate law enforcement agency for any appropriate action. Such report shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's abuse or neglect (including any evidence of previous abuse or neglect) to this child or his siblings; the name and address of the person responsible for the abuse or neglect; and any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section. The bureau may request and shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the bureau to fulfill its responsibilities under this section.

(4) A search warrant shall be issued upon a showing of probable cause that a child is being abused or neglected. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the local law enforcement officer. In the event a child who is in a hospital or under the immediate care of a physician appears to be in such certain danger of injury or death if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child in the physician's office or the hospital without court order provided that an attempt is made to obtain such court order at the earliest practicable time not to exceed seventy-two (72) hours. Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person responsible for such child, if the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health.

(5) In a proceeding before the juvenile session of district court to have a child removed from his home and placed in the custody of the bureau or the court, substantial evidence that the child is an abused or neglected child shall make a prima facie case for removal of the child even though it is not proved conclusively who has perpetrated the abuse or who has caused the neglect.

(6) Anyone acting upon reasonable cause in the making of a report pursuant to this section, KRS 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report.

(7) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client *and clergy-penitent* privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding an abused or neglected child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section.

(8) Upon receipt of a report of an abused or neglected child pursuant to this section, the bureau as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child, preventing further abuse or neglect of the child or any other child under the same care, preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(9) All information obtained by the bureau staff or its delegated representative, as a result of investigation made pursuant to this section shall not be divulged to any one except:

(a) Persons suspected of neglect or abuse, provided that in such cases names of informants may be withheld, unless ordered by the court;

(b) Persons within the bureau with a legitimate interest or responsibility related to the case;

(c) Other medical, psychological, or social service agencies, or law enforcement agencies that have a legitimate interest in the case; *and*

(d) Cases where a court orders release of such information.

(10) As a result of any report of suspected child abuse or neglect as defined in KRS 199.011(6) photographs and x-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person responsible for the child, as a part of the medical

evaluation or investigation of such reports. Such photographs and x-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person taking such photographs or x-rays shall be immune from criminal or civil liability.

Section 2. KRS 208B.030, 1980 Acts Chapter 280, Section 37, effective July 15, 1984, is amended to read as follows:

(1) Any physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, health professional, peace officer, mental health professional or other person, organization, or agency who knows or has reasonable cause to believe that a child is an abused or neglected child, shall cause a report to be made in accordance with the provisions of this section. When any of the above specified persons is attending a child as part of his professional duties, he shall report or cause a report which alleges abuse or neglect to be made in accordance with the provisions of this section.

(2) Allegations of abuse or neglect shall be made immediately by telephone or otherwise to the bureau or its delegated representative. If the person making the allegation has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency. If the allegation is made to any agency other than the bureau, such agency shall promptly refer the allegation to the bureau and shall be followed by a written report within forty-eight (48) hours. The bureau or its delegated representative shall upon the receipt of the initial report immediately send a report of suspected physical or sexual abuse to the appropriate law enforcement agency for any appropriate action. Such report shall contain:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's abuse or neglect (including any previous charges of abuse or neglect) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

The bureau or its delegated representative may request and shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the bureau to fulfill its responsibilities under this section.

(3) (a) If after receiving the report the department or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is abused or neglected. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the local law enforcement officer.

(b) In the event a child who is in a hospital or under the immediate care of a physician appears to be in such danger of injury or death if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child in the hospital without court order provided that an attempt is made to obtain such court order at the earliest practicable time not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision, if the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health. The officer shall, within one (1) hour of taking the child into such protective custody, contact the court and proceed in accordance with the provisions of KRS 208B.060.

(4) Anyone acting upon reasonable cause in the making of a report or acting under subsection (1) of this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report or action.

(5) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client *and clergy-penitent* privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding an abused or neglected child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in district or circuit court regarding an abused or neglected child.

(6) Upon receipt of a report of an abused or neglected child pursuant to this section, the bureau as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child. The department shall work toward preventing further abuse or neglect of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(7) All information obtained by the bureau staff or its delegated representative, as a result of investigation made pursuant to this section shall not be divulged to anyone except:

(a) Persons suspected of abuse or neglect provided that in such cases names of informants shall be withheld, unless ordered by the court;

(b) Persons within the bureau with a legitimate interest or responsibility related to the case;

(c) Other medical, psychological, or social service agencies, or law enforcement agencies that have a legitimate interest in the case; or

(d) Cases where a court orders release of such information.

(8) As a result of any report of suspected child abuse or neglect as defined in subsection (3) of this section, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

The Committee on Banking and Insurance reported **HB 20,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee Substitute to **HB 20** is as follows:

HB 20, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For the purpose of Section 2 of this Act, "person" shall not mean an insured.

SECTION 2. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

It is an unfair claims settlement practice for any person to commit or perform any of the following:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

SECTION 3. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No fraternal benefit society or insurance agent for a fraternal benefit society shall commit an unfair claims settlement practice as defined by Section 2 of this Act or regulations promulgated thereunder.

Section 4. KRS 304.3-200 is amended to read as follows:

(1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Wilfully violated or wilfully failed to comply with any lawful order of the commissioner; or

(b) Wilfully violated or wilfully failed to comply with any lawful regulation of the commissioner; or

(c) Wilfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or

(d) Failed to pay taxes on its premiums as required by law.

In lieu of or in addition to such suspension or revocation, the commissioner may, in his discretion, levy upon the insurer, and the insurer shall pay forthwith, an administrative fine as specified in KRS 304.99-020.

(2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this state:

1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or

2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims*; or*

3. Has committed any unfair claims settlement practice as defined in subtitle 12 or regulations promulgated thereunder.

(c) Refuses to be examined, or if its directors, officers, employes or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later.

(e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

(f) No insurer, its agents, servants, or employes shall incur any liability in connection with or as a result of any disclosure made to the commissioner of insurance pursuant to the provisions of this section.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.

The Committee on Banking and Insurance reported **HB 297** with Committee Substitute attached thereto, **HB 424** with Committee Amendment attached thereto, **HB 589, HB 594, HB 653, SB 2, SB 65** with Committee Amendment attached thereto, **SB 102,** and **SB 121,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 297, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of this subtitle, motor vehicle insurance rates shall be determined *solely on the basis of the driving record of the insured and factors such as age, sex, marital status, race, and place of residence shall not be used to determine motor vehicle insurance rates.*

Section 2. This Act shall become effective on July 1, 1985.

The Committee Substitute to **HB 297** is as follows:

HB 297, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of this subtitle, after an insured has been licensed to drive an automobile for three (3) years, an insured's private passenger automobile insurance rates shall be based solely on the driving record of the insured and factors such as age, sex, marital status, race, and place of residence shall not be used to determine private passenger automobile insurance rates.

Section 2. This Act shall become effective on July 1, 1985.

HB 424, AN ACT relating to negotiable instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any penal sanctions which may apply, any person who makes, utters, draws, or delivers any check, or draft, or order upon any bank or depository, or person, or firm, or corporation for the payment of money, which refuses to honor the same for lack of funds or credit to pay, or because the maker has no account with the drawee, and who fails to pay the same amount in cash to the payee within thirty (30) days following a written demand therefor delivered to the maker by certified mail, shall be liable to the payee, in addition to the amount owing upon such check or draft or order damages of treble the amount so owing, but in no case less than one hundred dollars ($100), and in no case more than five hundred dollars ($500).

(2) A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court.

The Committee Amendment No. 1 to **HB 424** is as follows:

Amend printed copy of **HB 424,** page 1, line 8, after "*pay*" by inserting "*after redeposit*"

page 1, line 15, by deleting the words "*less than one hundred dollars ($100), and in no case*"

HB 589, AN ACT relating to credit unions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) If it appears that any credit union is bankrupt or insolvent, or that it has willfully violated this chapter, or is operating in an unsafe or unsound manner, the commissioner may issue an order temporarily suspending the credit union's operations for not less than thirty (30) nor more than sixty (60) days. The board of directors shall be given notice by registered mail of such suspension, which notice shall include a list of the reasons for such suspension, or a list of the specific violations of this chapter, or both. The commissioner shall also notify any government agency or other organization insuring the accounts of the credit union of any suspension.

(2) Upon receipt of such suspension notice, the credit union shall cease all operations, except those authorized by the commissioner. The board of directors shall then file with the commissioner a reply to the suspension notice, and may request a hearing to present a plan of corrective actions proposed if it desires to

continue operations. The board may request that the credit union be declared insolvent and a liquidating agent be appointed.

(3) Upon receipt from the suspended credit union of evidence that the conditions causing the order of suspension have been corrected, the commissioner may revoke the suspension notice, permit the credit union to resume normal operations, and notify any interested insuring agency of such action.

(4) If the commissioner, after issuing notice of suspension and providing an opportunity for a hearing, rejects the credit union's plan to continue operations, he may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union may request the appropriate court to stay executive of such action. Involuntary liquidation may not be ordered prior to the conclusion of suspension procedures outlined in this section.

(5) If, within the suspension period, the credit union fails to answer the suspension notice or request a hearing, the commissioner may then revoke the credit union's charter, appoint a liquidating agent and liquidate the credit union.

SECTION 2. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) A credit union may elect to dissolve voluntarily and liquidate its affairs in the manner prescribed in this section.

(2) The board of directors shall adopt a resolution recommending the credit union be dissolved voluntarily, and directing that the question of liquidation be submitted to the members.

(3) Within ten (10) days after the board of directors decides to submit the question of liquidation to the members, the president shall notify the commissioner and any government agency or other organization insuring member accounts thereof in writing, setting forth the reasons for the proposed liquidation. Within ten (10) days after the members act on the question of liquidation, the president shall notify the commissioner and any government agency or other organization insuring member accounts in writing as to the action of the members on the proposal.

(4) As soon as the board of directors decides to submit the question of liquidation to the members, payments on shares, share certificates, deposits, deposit certificates, withdrawal of shares, making any transfer of shares to loans and interest, making investments of any kind, and granting loans shall be suspended pending action by members on the proposal to liquidate. On approval by the members of such proposal, all such business transactions shall be permanently discontinued. Necessary expenses of operation shall, however, continue to be paid on authorization of the board of directors or liquidating agent during the period of liquidation.

(5) For a credit union to enter voluntary liquidation, approval by a majority of the members in writing or by a two-thirds (2/3) majority of the members present at a regular or special meeting of the members is required. Where authorization for liquidation is to be obtained at a meeting of the members, notice in writing shall be given to each member, by first class mail, at least ten (10) days prior to such meeting.

(6) A liquidating credit union shall continue in existence for the purpose of discharging its debts, collecting on loans and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully concluded.

(7) The board of directors or the liquidating agent shall use the assets of the credit union to pay: first, expenses incidental to liquidation including any surety bond that may be required; second, any liability due non-members; third, deposits and deposits certificates as provided in this chapter. Assets then remaining shall be distributed to the members proportionately to the shares held by each member of the date dissolution was voted.

(8) As soon as the board of directors or the liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, they shall execute a certificate of dissolution on a form prescribed by the commissioner and file it, together with all pertinent books and records of the liquidating credit union, with the commissioner, whereupon such credit union shall be dissolved.

SECTION 3. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) Any credit union may, with the approval of the commissioner, merge with another credit union under the existing charter of the other credit union, pursuant to any plan agreed upon by the majority of each board of directors of each credit union joining in the merger, approved by the affirmative vote of a majority of the members of the merging credit union present at a meeting of its members duly called for such purpose, and consented to by any government agency or other organization insuring the accounts of the credit union.

(2) The commissioner may approve a merger according to the plan agreed upon by the majority of the board of directors of each credit union if approved by less than a majority of the entire membership, as provided in this section, if he finds upon the written and verified application filed by the board of directors that:

(a) Notice of the meeting called to consider the merger was mailed to each member entitled to vote

upon the question;

(b) Such notice disclosed the purpose of the meeting and properly informed the membership that approval of the merger might be sought pursuant to this section; and

(c) A majority of the votes cast upon the question were in favor of the merger.

(3) After agreement by the directors and approval by the members of the merging credit union, the president and secretary of the credit union shall execute a certificate of merger, which shall set forth all of the following:

(a) The time and place of the meeting of the board of directors at which the plan was agreed upon;

(b) The vote in favor of the adoption of the plan;

(c) A copy of the resolution or other action by which the plan was agreed upon;

(d) The time and place of the meeting of the members at which the plan agreed upon was approved; and

(e) The vote by which the plan was approved by the members.

(4) Such certificate and a copy of the plan of merger agreed upon shall be forwarded to the commissioner, certified by him, and returned to both credit unions within thirty (30) days.

(5) Upon return of the certificate from the commissioner, all property, property rights, and members' interest of the merged credit union shall vest in the surviving credit union without deed, endorsement or other instrument of transfer; and all debts, obligations and liabilities of the merged credit union shall be deemed to have been assumed by the surviving credit union under whose charter the merger was effected. The rights and privileges of the members of the merged credit union shall remain intact.

(6) This section shall be construed, whenever possible, to permit a credit union organized under any other act to merge with one (1) incorporated under this chapter, or to permit any credit union incorporated under this chapter to merge with one (1) organized under any other act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) A credit union incorporated under the laws of this state may be converted to a credit union organized under the laws of any other state or under the laws of the United States, subject to regulations issued by the commissioner.

(2) A credit union organized under the laws of the United States or of any other state may convert to a credit union incorporated under the laws of this state. To effect such a conversion, a credit union must comply with all the requirements of the jurisdiction under which it was originally organized and the requirements of the commissioner and file proof of such compliance with said commissioner.

Section 5. The following KRS sections are repealed:

290.290 Voluntary dissolution.

290.295 Merger of credit union.

HB 594, AN ACT relating to credit unions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 290.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Corporation" means a credit union organized as provided in this chapter;

(2) "Commissioner" means the commissioner of *the credit union department* [~~banking and securities~~]; [~~and~~]

(3) "Temporary loan" means any loan by a credit union which when made is payable not later than the next regular pay day or, the next regular deduction pay period of the borrower*;*

(4) "Council" means the credit union council;

(5) "Department" means the credit union department.

SECTION 2. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) A credit union department is created as a separate department of state government charged with the supervision and regulation of credit unions chartered under the laws of this state.

(2) The department shall be administered by the commissioner of credit unions who shall be appointed by the governor. The commissioner shall have a working knowledge of financial institutions, preferably credit unions, which may be derived from governmental, academic or professional experience.

SECTION 3. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) The salary of the commissioner shall be determined by the governor.

(2) The commissioner may delegate to any officer or employe of the department the power to

perform any of his duties.

SECTION 4. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) A credit union council is created which shall consult with and advise the commissioner on matters pertaining to the chartering, operations, and supervision of credit unions and may reverse decisions of the commissioner which deny charter applications and disapprove amendments to the articles of incorporation or bylaws.

(2) The council shall consist of five (5) persons who shall be appointed by the governor. Three (3) members of the council shall have had a minimum of three (3) years experience as a credit union officer or director or a similar management position. Appointments to the council shall be for terms of five (5) years, except that four (4) of the initial appointments shall be for terms of four (4), three (3), two (2), and one (1) year respectively so that in each subsequent year, one (1) member shall be appointed to a full term.

(3) All members shall serve until their successors have been appointed and qualified. In the event a vacancy occurs, the appointment to fill the vacancy for the unexpired term shall be made in the manner of the original appointment.

(4) The chairman of the council shall be elected annually by and from the members thereof.

(5) The initial meeting of the council shall be called by the commissioner. Thereafter regular meetings shall be held at such times and places as shall be determined by the chairman and the commissioner, but at least once each six (6) months. Special meetings may be called either by the chairman, the commissioner, or a majority of the council members. The council may establish its own procedures and practices.

(6) The department shall reimburse council members for their actual and necessary travel and subsistence expenses.

(7) The department shall provide such clerical, technical and legal assistance as the council may require.

(8) The council shall require bonding in a reasonable amount for any officers and employes of the department who handle money or securities in the course of performing their official duties.

SECTION 5. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may prescribe rules or regulations to implement the credit union laws of this state and to define any term not defined in the laws. Such rules shall serve to foster and maintain an effective level of credit union services and the security of member accounts.

(a) Before adopting a final rule or regulation, the commissioner shall give at least thirty (30) days notice of the proposed rule or regulation, send a copy to each credit union affected thereby, solicit comments, and give due consideration to any comments received;

(b) Any person or credit union may request a public hearing on a proposed rule or regulation within fifteen (15) days following the notice by the commissioner. The commissioner shall respond to any such request for a public hearing within five (5) days of the receipt of the request;

(c) The commissioner may also issue interim rules, but these shall be effective for a period of not exceeding ninety (90) days.

(2) The commissioner may restrict the withdrawal of shares or deposits from any credit union when he finds circumstances make such restriction necessary for the proper protection of shareholders or depositors.

(3) The commissioner may order any person to cease violating any provision of the credit union laws of this state or any lawful rule issued thereunder, or to cease engaging in any unsound credit union practice.

(4) The commissioner may suspend or remove a director, officer, committee member or employe of a credit union who becomes ineligible to hold his position or, who after receipt of an order to cease under subsection (3) of this section, violates the credit union laws of this state or a lawful rule or order issued thereunder, or who is dishonest, reckless or grossly incompetent in the conduct of credit union business. Each suspension or removal order shall specify the grounds therefor, and a copy of the order shall be sent to the credit union concerned.

(5) The commissioner shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject relating to a duty imposed upon or a power vested in the commissioner.

SECTION 6. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

Any person or credit union aggrieved and directly affected by an order of the commissioner or the council may appeal to the Franklin circuit court within thirty (30) days after issuance of the order.

SECTION 7. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall annually examine, or cause to be examined, each credit union. A credit union and any of its officers and agents shall be required to give the commissioner or his representatives full access to all books, papers, securities, records and other sources of information under their control.

(2) A report of such examination shall be forwarded to the chairman of the board within thirty (30) days after completion. Said report shall contain comments relative to the management of the affairs of the credit union and the general condition of its assets. Within sixty (60) days after the receipt of such report, the directors and committeemen shall meet to consider matters contained in the report.

(3) In lieu of making an annual examination of a credit union, the commissioner may accept an audit report of the condition of the credit union made by a licensed public accountant or other qualified person or firm approved by the commissioner. The cost of the audit shall be borne by the credit union.

SECTION 8. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) A credit union shall maintain all books, records, accounting systems and procedures in accordance with such rules as the commissioner from time to time prescribes. In prescribing such rules, the commissioner shall consider the relative size of a credit union and its reasonable capability of compliance.

(2) A credit union is not liable for destroying records after the expiration of the record retention time prescribed by regulation.

(3) A photostatic or photographic reproduction of any credit union records shall be admissible as evidence of transactions with the credit union.

SECTION 9. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) Credit unions shall report to the commissioner annually on or before the first day of February on forms supplied by him for that purpose. Additional reports may be required.

(2) A charge shall be levied, as prescribed by regulation, for each day a credit union fails to provide a required report, unless it is excused for cause.

SECTION 10. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall annually compile a comprehensive program budget which reflects all fiscal matters related to the operation of the credit union department and each program, subprogram and activity therein. The budget shall be subject to the review and approval of the council.

(2) The commissioner shall establish by rule an operating fee or fees or assessments to be paid by credit unions. Such fees shall defray, as far as practicable, the administrative, supervisory, examining and other expenses of the credit union department.

(3) Any such fees established shall be in accordance with a graduated scale on the basis of assets and shall be payable annually. No such fees, however, shall be payable by a credit union for the year in which its charter is issued.

(4) There is created in the state treasury the "credit union supervisory fund." All fees, assessments, or charges collected from credit unions shall be deposited with the state treasury to the credit of the fund. They may be expended by the commissioner for such administrative, supervisory, or other expenses incurred in implementing the credit union laws of this state, in conformity with the budget approved for the department.

SECTION 11. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) With the exception of the council, information from the records of the department shall be revealed only with the consent of the commissioner.

(2) The council shall have access to the records of the department.

(3) Reports of examinations made by the department shall be retained for five (5) years.

(4) A copy of any document on file with the department which is certified by the commissioner as being a true copy may be introduced as evidence as if it were the original.

SECTION 12. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

(1) No officer or employe of the department shall be an officer, director or attorney for any credit union incorporated under this chapter, or, except as provided in subsection (2) of this section, receive, directly or indirectly, any payment or gratuity from any such credit union, or be indebted to any credit union incorporated under this chapter, or engage in negotiation of loans for others with any such credit union.

(2) Subsection (1) of this section shall not prohibit any such person from being a shareholder or depositor in a credit union incorporated under this chapter on the same terms as are available to other members.

SECTION 13. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

The commissioner shall report to the governor annually, within ninety (90) days after the end of the fiscal year, summarizing the condition of credit unions incorporated under this chapter, the activities of the department, and offering any recommendations for legislation. Such report shall be made after full consultation with the council and shall contain any recommendations or comments submitted by the council for inclusion in the report.

Section 14. KRS 290.090 is amended to read as follows:

Each credit union shall make a report of its condition to the commissioner, on blank forms to be supplied by the *credit union* department [~~of banking and securities~~] on the dates of the calls made to state banks. Notice of the calls shall be sent out by the commissioner. The reports shall be verified by the oath of a majority of the members of the supervisory committee, or by the oath of the president and treasurer or secretary, and further reports shall be made as the commissioner at any time demands.

Section 15. KRS 290.105 is amended to read as follows:

In undertaking the examination of any credit union, neither the Commonwealth of Kentucky, the commissioner of the *credit union* department [~~of banking and securities~~], nor any examiner employed by the Commonwealth shall become liable to any depositor, investor, or other obligor of said credit union by reason of said examination or omission of said examination to fully and effectively disclose the financial condition of said credit union, it being the policy of the Commonwealth of Kentucky that such examinations as are required by *Section 9 of this Act* [~~KRS 290.100~~] are for the purpose of determining compliance with state law and not for the purpose of protecting or guaranteeing the depositors, investors or other obligors of said credit unions.

Section 16. KRS 287.011 is amended to read as follows:

(1) There is created a department of banking and securities, which constitutes a department of the state government within the meaning of KRS Chapter 12. The department shall be headed by a commissioner of banking and securities, who shall be the executive head of the department and shall be charged with the administration of the department.

(2) The department of banking and securities shall exercise all administrative functions of the state in relation to the regulation, supervision, chartering and licensing of banks, trust companies, savings and loan associations, petty loan companies, investment and industrial loan companies, [~~and credit unions,~~] and in relation to the regulation of securities. For administrative purposes the department may be divided into sections for each class of financial institution under jurisdiction of the department, and there shall be within the department, for regulation of securities, a division of securities, headed by a director who has had at least four (4) years' successful business experience and a division of banking to be headed by a director.

Section 17. KRS 290.100, Supervision by commissioner -- Financial reports -- Examination -- Fees, is repealed.

HB 653, AN ACT relating to credit life and health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.19-080 is amended to read as follows:

(1) All such policies, certificates of insurance, notices of proposed insurance, applications for insurance, indorsements and riders delivered or issued for delivery in this state and the schedule of premium rates pertaining thereto shall be filed with the commissioner.

(2) All life insurance and all health insurance in connection with loans or other credit transactions shall be subject to the provisions of this subtitle, except health insurance in connection with a loan or other credit transaction of more than five (5) years' duration or life insurance in connection with a loan or other credit transaction of more than ten (10) years' duration; nor shall insurance be subject to provisions of this subtitle where the issuance of such insurance is an isolated transaction on the part of the insurer not relating to an agreement or a plan for insuring debtors of the creditor; nor shall insurance issued for an amount in excess of *forty* [~~twenty~~] thousand dollars *($40,000*[~~($20,000)~~] be subject to this subtitle.

(3) (a) Credit life insurance. The premium rates set forth hereunder, or actuarially equivalent, shall not exceed:

1. For decreasing term credit life insurance, a single premium of sixty cents (60) per annum per one hundred dollars ($100) of scheduled indebtedness, or sixty-five cents (65) per annum per one hundred dollars ($100) of scheduled indebtedness if dismemberment benefits are included in the policy.

2. Single premium rates for indebtedness repayable in monthly instalments other than twelve (12) in number shall not exceed one-twelfth (1/12) of the above premium rate multiplied by the number of full months in the scheduled period.

3. A premium payable monthly at the rate of ninety-two cents (92) per one thousand dollars ($1,000) of outstanding unpaid insured indebtedness or one dollar ($1.00) per one thousand dollars ($1,000) of outstanding unpaid insured indebtedness if dismemberment benefits are included in the policy, will be deemed the actuarial equivalent of the foregoing rates.

4. For level term credit life insurance, a single premium of one dollar and twenty cents ($1.20) per annum per one hundred dollars ($100) of indebtedness or one dollar and thirty cents ($1.30) per one hundred dollars ($100) of indebtedness if dismemberment benefits are included in the policy.

(b) 1. The standards set forth above are applicable to a plan of death benefits with or without requirements for evidence of insurability which contain no exclusions except for suicide; other exclusions must receive the approval of the commissioner, and

2. Coverage shall be offered to all debtors regardless of age; or to all debtors not older than the applicable age limit which shall be not less than sixty-five (65) at the inception of the indebtedness or sixty-six (66) at the scheduled maturity date of the transaction, provided that each company's right to underwrite risks on an individual basis shall not be restricted by this subparagraph. Appropriate adjustments may be made with the approval of the commissioner if premium rates are determined according to the age of the insured debtor or by age brackets.

3. Rates for use with forms which are more restrictive in any material respect shall reflect such variations in lower rates. Similarly, forms providing more extensive benefits than set forth above may carry appropriately higher charges.

4. The standards set forth above shall be applicable to contracts which may contain a provision excluding or denying a claim for death, resulting from pre-existing illness, disease or physical condition for which the debtor received medical advice, consultation or treatment during the twelve (12) month period immediately preceding the effective date of the debtor's coverage and which would ordinarily be expected to affect materially the debtor's health during the period of coverage; provided, however, that after such coverage has been in force for six (6) months (twelve (12) months for contracts of more than three (3) years), this pre-existing exclusion clause shall not operate to deny coverage for any death thereafter. The contract shall contain no other provision which excludes or restricts liability in the event of death caused in a certain specified manner, except provisions excluding or restricting coverage in the event of intentionally self-inflicted injuries, foreign travel or residence, flight in nonscheduled aircraft, war or military service.

(4) (a) Credit health insurance. The following premium rates, or actuarially equivalent rates, shall be charged for the coverages set forth hereunder:

Single Premium Per $100 of Initial Indebtedness

	Nonretroactive Basis		Retroactive Basis	
Number of Monthly Instalments	14-Day Wait	30-Day Wait	14-Day Wait	30-Day Wait
1-6 months	$ 1.51	$ .69	$ 2.02	$ .92
7-12 months	2.02	.91	2.69	1.22
13-19 months	2.50	1.56	3.33	2.08
20-24 months	2.93	1.84	3.91	2.45
25-30 months	3.28	2.34	4.37	3.12
31-36 months	3.85	2.77	5.14	3.70
37-48 months	4.77	3.67	6.36	4.89
49-60 months	5.68	4.58	7.58	6.11

(b) 1. The standards set forth above shall be applicable to contracts which may contain a provision excluding or denying a claim for disability, resulting from pre-existing illness, disease or physical condition for which the debtor received medical advice, consultation or treatment during the twelve (12) month period immediately preceding the effective date of the debtor's coverage and which would ordinarily be expected to affect materially the debtor's health during the period of coverage; provided, however, that after such coverage has been in force for six (6) months (twelve (12) months for contracts of more than three (3) years), this pre-existing exclusion clause shall not operate to deny coverage for any disability commencing thereafter. The contract shall contain no other provision which excludes or restricts liability in the event of disability caused in a certain specified manner, except provisions excluding or restricting coverage in the event of pregnancy, intentionally self-inflicted injuries, foreign travel or residence, flight in nonscheduled aircraft, war or military service.

2. Coverage shall be offered to all debtors regardless of age, or to all debtors not older than the applicable age limit which shall be not less than sixty-five (65) at the inception of the indebtedness or sixty-six (66) at the scheduled maturity date of the transaction, provided that each company's right to underwrite risks on an individual basis shall not be restricted by this subparagraph. Appropriate adjustments may be made with the approval of the commissioner if premium rates are determined according to the age of the insured debtor or by age brackets.

3. Rates for use with forms which are more restrictive in any material respect shall reflect such variations in lower rates. Similarly, forms providing more extensive benefits than set forth above may carry appropriately higher charges.

(5) Statistical reporting. Each insurer writing credit life or credit health insurance within this state shall keep and maintain statistical data of its experience on these kinds of insurance. The insurer shall, on or before May 1 of each year, file with the commissioner its statistical experience data for the year ending December 31 immediately preceding. Such experience shall be reported on forms conforming to those now or hereafter from time to time adopted by the national association of insurance commissioners.

(6) If a group policy has been delivered in this state before June 18, 1980, or has been or is delivered in another state before or on or after June 18, 1980, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in subsections (2) and (4) of KRS 304.19-070, and such forms shall be approved by the commissioner if they conform with the requirements specified in such subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner. The premium rate in effect on existing group policies may be continued until the first policy anniversary date following June 18, 1980. After June 18, 1980, no borrower shall be added to an existing group policy at rates higher than those set forth in subsections (3) and (4) of this section.

(7) The foregoing rates and procedures are deemed to be legislative prerogatives and shall not be subject to administrative or executive change or modification.

SB 2, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.16-050 is amended to read as follows:

The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both. The policy may provide that the term "member" shall include retired members;

(2) The premium for the policy shall be paid by the policyholder[~~, either wholly~~] from the union's funds, [~~or partly from such funds and partly~~] from funds contributed by the insured members specifically for their insurance, *or from both. A* [~~No~~] policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part *or all* of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75 per cent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer;

(3) The policy must cover at least twenty-five (25) members at date of issue;

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union*;*

(5) Nothing contained in this section shall require the termination of insurance for, or prohibit the contribution of all required premium by, an otherwise insured member who involuntarily becomes temporarily unemployed.

SB 65, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any schedule of rates or rating plan for automobile liability and physical damage insurance filed with the commissioner shall provide for an appropriate reduction in premium charges for a period of two (2) years for those insureds fifty-five (55) years of age and older who successfully complete a motor vehicle accident prevention course meeting standards set by the transportation cabinet. There shall, however, be no

reduction in premiums for a self-instructed course or for a course which does not provide for classroom or field driving instruction for a minimum number of hours, to be determined by the transportation cabinet.

(2) All insurance companies writing automobile liability and physical damage insurance in Kentucky shall allow an appropriate reduction in premium charges to all eligible persons subject to this section.

(3) Upon successfully completing the approved course, each participant shall be issued by the course's sponsoring agency a certificate which shall be the basis of qualification for the discount on insurance.

(4) Each participant shall take an approved course each two (2) years to continue to be eligible for the discount on insurance.

(5) The transportation cabinet is hereby empowered to promulgate regulations setting standards for the motor vehicle accident prevention course described in subsection (1) of this section.

(6) No discount shall be available under this section to those completing the prescribed motor vehicle accident prevention course under a court order as a result of a motor vehicle conviction.

The Committee Amendment No. 1 to **SB 65** is as follows:

Amend printed copy of **SB 65,** page 2, after line 12 by inserting:

"SECTION 2. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every private passenger, farm and utility automobile insurance policy shall provide the following life time renewal agreement:

The insurer hereby guarantees the continued insurability of any policyholder who has attained the age of sixty-two (62) and has been continuously insured by the company for a minimum period of three (3) years on the first anniversary date of the policy following attainment of age sixty-two (62). The company agrees it will, upon written request of the named insured, renew or continue the insurance afforded by the policy subject to the following conditions:

(1) The named insured, and any other operator who either resides in the same house hold or customarily operates an automobile insured under the policy, must be able to meet minimal physical standards for safe operation of a motor vehicle including corrected vision of at least 20/70 and visual form field in excess of 110 degrees. A written report from a licensed physician confirming this may be required periodically. The company shall not be responsible for the cost of such reports, except where required by law or other requirements.

(2) The named insured, and any other operator who either resides in the same household or customarily operates an automobile insured under the policy, must maintain a valid driver's license. A suspension or revocation voids this agreement.

(3) The named insured (or spouse if a resident of the same household) must be the principal operator(s) of the insured automobile(s)."

SB 102, AN ACT relating to the municipal premium tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

(2) Any license fee or tax imposed by such a city or urban-county government upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city or urban-county government, less all premiums returned to policyholders. A fire insurance company entering a city or urban-county government during a license year shall, at the end thereof, promptly pay to such city or urban-county government the full additional tax due on such percentage basis.

(3) Any license fee or tax imposed by such a city or urban-county government upon a life insurance

company may be based upon premiums received, and if so based, shall be applied to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city or urban-county government.

(4) Any license fee or tax imposed by such a city or urban-county government upon any insurance company other than those specified in subsections (2) and (3) of the section shall be based upon a percentage of the premiums received by such company within the preceding calendar year on risks located within the corporate limits of the city or urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; provided, however, that any license fee or tax imposed upon premium receipts on a percentage basis shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the worker's compensation act.

(5) The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than thirty percent (30%) of the fee or tax collected and remitted to the city or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsection (1), (2), (3) or (4) of this section, together with the collection fee herein may be rounded off to the nearest dollar amount.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(7) Upon written request of the legislative body of any city or urban-county government, at the expense of the requesting city or urban-county government, which shall be paid in advance by such city or urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2), (3) and (4) of this section shall be due at the beginning of the tax year. The city or urban-county government may collect a fee of five dollars ($5) from any company whose fee or tax on the percentage of premium basis is less than five dollars ($5.00).

(9) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employes under KRS 18A.225(2).

SB 121, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-110 is amended to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) *Either (i) Split Limits* Liability coverage of not less than *twenty-five thousand dollars ($25,000)* [~~ten thousand dollars ($10,000)~~] for all damages arising out of bodily injury sustained by any one person [~~as a result of any one accident~~], and not less than *fifty thousand dollars ($50,000)* [~~twenty thousand dollars ($20,000)~~] for all damages arising out of bodily injury sustained *by all persons injured* as a result of any *one* [~~single~~] accident, *plus* [~~caused by accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;~~]

[~~(b)~~] Liability coverage of not less than *ten thousand dollars ($10,000)* [~~five thousand dollars ($5,000)~~] for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; *or (ii) Single Limits Liability coverage of not less than sixty thousand dollars ($60,000) for all damages whether arising out of bodily injury or damage to property as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;*

(b)[~~(c)~~] That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada; and

(c)[~~(d)~~] Basic reparation benefits as defined in KRS 304.39-020(2).

(2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to

liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.

(3) Security for a motorcycle is fulfilled by providing only the coverages set forth in subsections (1)(a) *and* [~~,~~] (b) [~~and (c)~~] of this section.

The Committee on Natural Resources and Environment reported **HB 330, HB 536,** and **HB 601** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 330, AN ACT relating to hunting and fishing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.993 is amended to read as follows:

(1) As used in this section, "enclosed lands" means lands whose boundaries are clearly identified.

(2) Any person who enters upon the enclosed lands of another to shoot, hunt, or fish without the oral or written consent of the owner or *tenant* [~~occupant~~] shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00).

(3) Any person who enters upon the enclosed lands of another to shoot or hunt with a rifle chambered for center fire cartridges of a caliber of .240 and greater without first obtaining the written consent of the owner or *tenant* [~~occupant~~] shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00). This subsection shall not apply to unoccupied land.

HB 536, AN ACT relating to navigable waterways.

WHEREAS, the Corps of Engineers has ceased operation on locks 5 through 14 on the Kentucky river; and

WHEREAS, the *Final Report of the Kentucky River Task Force* recommended that the state natural resources and environmental protection cabinet operate and perform routine maintenance on locks 5 through 14 on the Kentucky river; and

WHEREAS, the closure of these locks affects recreational boating, tourism, the potential for commercial navigation, and economic and industrial development; and

WHEREAS, the drought of 1983 emphasizes the importance of the present stage of the Kentucky river in supplying water vital to the health and welfare of many Kentuckians; and

WHEREAS, KRS 151.580 allows the natural resources and environmental protection cabinet to "negotiate with the appropriate federal agencies for the operation or maintenance of a navigable waterway within the state boundaries";

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.580 is amended to read as follows:

(1) The department may negotiate with the appropriate federal agencies for the operation or maintenance of a navigable waterway within the state boundaries. The department shall not initiate negotiation for operation or maintenance of a waterway under federal control unless the lack of an agreement jeopardizes the continued navigation of said waterway. Any agreement negotiated by the department shall be subject to the approval of the governor and the secretary of the department of finance, and, if the negotiated agreement will involve the expenditure of state funds, the general assembly may appropriate funds to fulfill the terms of the negotiated agreement before the negotiated agreement shall become effective.

(2) Hydroelectric generating facilities shall be prohibited in the lock chambers of any navigable waterway which is the subject of negotiations under subsection (1) of this section, as well as all associated equipment and transmission lines.

HB 601, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 350.057 TO 350.060 IS CREATED TO READ AS FOLLOWS:

The cabinet shall establish by January 1, 1985, procedures for the application, review, and issuance of all permits required by this chapter from regional or field offices. At a minimum, three (3) offices in the eastern Kentucky coal field and one (1) office in the western Kentucky coal field shall be established by January 1, 1985, for the purpose of processing and issuing such permits.

Calendar

HB 602, HB 285, HB 445, HB 456, HB 596, HB 650, HB 634, HJR 20, SCR 14, HB 178, HB 240, HB 608, HR 53, SB 120, HB 558, HB 629, HB 453, HB 449, HB 484, HB 511, HB 580, and **HB 583** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 4, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved the adoption of the Committee Substitute to **HB 4.** Agreed.

Representative Cline moved that **HB 4,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 4, by way of Committee Substitute, was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 4,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 35 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Harper moved that **SB 35** be passed.

On the roll call the vote was yeas 81-Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Thomas, Thomason, Todd, Turner, White, Worthington, Yates. Nays 7-Clarke, Dawahare, Freibert, Heleringer, R. Jones, B. Smith, Van Horn.

SB 35 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 35** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the

Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 161**. Agreed.

Representative Moberly moved that **HB 161**, by way of Committee Substitute, be passed.

Representative Perkins moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 161**. Agreed.

Representative Moberly moved that **HB 161**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 66-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Crupper, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Freibert, Gedling, Gray, Hancock, Handy, Harper, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Nett, Noe, O'Brien, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 32-Allen, Brown, Bruce, Burnette, Clapp, Cline, Craddock, Curd, Dawahare, Ellington, Endicott, Ford, Foster, Fryman, Head, Heleringer, Holbrook, Holloway, Layman, Lefevers, Lile, McNutt, Moore, Morris, Noland, Overstreet, Patrick, Pearman, Rattliff, Robinson, Todd, Turner.

HB 161, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 161**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 523, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Committee Amendment No. 1 to **HB 523**. Agreed.

Representative Curd moved that **HB 523**, as amended, be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 523, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 523**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 533, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Amendment No. 1 to **HB 533**. Agreed.

Representative Stumbo moved that **HB 533**, as amended, be passed.

On the roll call the vote was yeas 86-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T.

Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 8-Allen, Crupper, Farrow, Fryman, Hancock, Rattliff, P. Richardson, Robinson.

HB 533, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 533,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 500, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Committee Amendment No. 1 to **HB 500**. Agreed.

Representative Williams moved that **HB 500,** as amended, be passed.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 7-Allen, Clarke, Fryman, Holloway, McNutt, Morris, Patrick.

HB 500, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 500,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SJR 1** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-2:48 p.m.)

Orders of the Day (continued)

HB 534 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 534** be passed.

On the roll call the vote was yeas 70-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Van Horn, Williams, Worthington, Yates. Nays 22-Allen, Brown, Caldwell, Cline, Crupper, Dawahare, Ellington, Farrow, Ford, Fryman, Holloway, Layman, Lefevers, McNutt, Moore, Noland, Patrick, Pearman, Robinson, Todd, Turner, White.

HB 534 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 534** was passed be reconsidered and said

motion be placed on the table. Agreed.

HB 537 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 537** be passed.

On the roll call the vote was yeas 87-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Hancock, Harper, Heleringer, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Worthington, Yates. Nays 0.

HB 537 was passed and the title agreed.

Representative LeMaster moved that the vote by which **HB 537** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 14 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **SB 14** be passed.

On the roll call the vote was yeas 82-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Worthington, Yates. Nays 10-Allen, Bruce, Burnette, Fryman, Hancock, McNutt, Morris, B. Richardson, B. Smith, Turner.

SB 14 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 14** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 119, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of the Committee Substitute to **HB 119**. Agreed.

Representative Meyer moved the adoption of the Floor Amendment No. 7 to the Committee Substitute to **HB 119**. Agreed.

Representative LeMaster moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 119**.

On the roll call the vote was yeas 35-Arnold, Clapp, Clarke, Cline, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Guenthner, Holloway, R. Jones, LeMaster, List, Little, Long, Lundergan, McBee, Moberly, Nett, O'Brien, Overstreet, Pearman, Petty, Rapier, Richards, B. Richardson, B. Smith, Thomas, Thomason, Turner, Van Horn, Yates. Nays 38-Bendl, Blevins, Bronger, Brown, Burch, Caldwell, L. Clark, Crupper, Endicott, Foster, Freibert, Fryman, Gray, Harper, Head, Heleringer, Holbrook, Johnson, T. Jones, Kenton, Layman, Lile, Maggard, Mann, McElroy, McNutt, Noland, Patrick, Perkins, Priddy, Rattliff, Reinhardt, Riner, F. Smith, Stone, Stumbo, Todd, White.

The Floor Amendment No. 1 to the Committee Substitute to **HB 119** was rejected.

Representative Meyer moved that **HB 119**, by way of Committee Substitute as amended, be passed.

Representative Guenthner moved the adoption of the Floor Amendment No. 8 to the Committee Substitute to **HB 119**.

On the roll call the vote was yeas 22-Allen, Bronger, Deskins, Dunn, Endicott, Ford, Freibert, Guenthner, Heleringer, Hines, Holbrook, Holloway, Layman, LeMaster, Moore, Overstreet, Patrick, Rattliff, Todd, Turner, Williams, Yates. Nays 58-Bendl, Bennett, Blandford, Blevins, Brinkley, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Craddock, Curd, Cyrus, Donnermeyer, Ellington, Farrow, Foster, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Johnson, R. Jones, T. Jones, Kenton, Kidd, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Pearman, Perkins, Petty, Priddy, Rapier, B. Richardson, Riner, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White.

The Floor Amendment No. 8 to the Committee Substitute to **HB 119** was rejected.

Representative Meyer moved that **HB 119**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 91-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 7-Barrows, Bennett, Ellington, Guenthner, Noe, Priddy, Williams.

HB 119, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 119**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350, with Senate Amendments attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 350** is as follows:

Amend printed copy of **HB 350**, on page 8, line 22, after "Section 12." by deleting the following: "KRS 6.031 is amended to read as fol-", and by deleting lines 23-26, and by deleting pages 9-30, and on page 31, by deleting lines 1-25, and on line 26 by deleting "Section 13."

and on page 33, line 7, after "Section" by inserting "13" and by deleting "14"

and on page 38, line 6, after "Section" by inserting "14" and by deleting "15"

and on line 15, after "Section" by inserting "15" and by deleting "16"

and on page 39, line 16, by placing brackets around and striking through the following: [later than fifty-five (55) days]"

and on page 40, line 23, after "Section" by inserting "16" and by deleting "17"

and on page 42, line 10, after "Section" by inserting "17" and by deleting "18"

and on page 43, line 22, after "Section" by inserting "18" and by deleting "19"

and on page 44, after line 13, by inserting the following:

Section 19. (1) Candidates for offices to be voted for by the electors of one county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by law for holding the primary election. Candidates for [~~all state~~] offices *to be voted for by the electors of more than one (1) county, and for members of congress and members of the general assembly,* shall file their nomination papers with the secretary of state not less than *seventy-five (75)* [~~ninety (90)~~] days before the day fixed by law for holding the primary election.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate. The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline."

and on page 49, line 24, after "23" by inserting the following:

"KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than *seventy-five (75)* [~~fifty-five (55)~~] days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, fifty-three (53) days before the primary election.

(5) Not less than forty-five (45) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice under which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(7) The names of the candidates shall be placed on the voting machine in a separate column or line headed or preceded by the words "Judicial Ballot." Above the names of candidates for nomination shall be printed the words "Vote for one," or "Vote for one in each division," as appropriate. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(8) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(9) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 24."

and on page 52, line 18, after "Section" by inserting "25. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.

(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and, *except for Buck Grove precinct,* that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth

District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the Lexington-Blue Grass Army Depot and in the election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and

34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not

contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, that part of Sandfordtown not contained in the Sixty-third District, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the city of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: that part of Bromley precinct not contained in Ludlow city and in Bromley city, Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, and Burtonsville and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then

westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, Aspendale, Bluegrass, Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, Ohio, Rookwood, Victory, Walnut Street, Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, Douglas, Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, Imperial, Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles Pike, Viley Heights, Washington, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and Arlington.

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport, Blueberry Hills, Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell, Malabu, Montavesta, Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, Tudor, Bayswater, Kirklevington, Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview, Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, River Park, Blairmore, Edgewater, Ascot, Park Hills, Cove Lake, Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding

Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner , Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood , Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

Section 26. KRS 6.041 is amended to read as follows:

Any reference in KRS 6.011 and 6.031 to a census unit, city, county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980. Any reference to a ward, commissioner's district or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980, *except that in KRS 6.011(18), Buck Grove precinct shall mean that precinct as it existed January 1, 1984.*

Section 27."

and by deleting $24."; and on line 21, after "Section" by inserting "28.", and by deleting "25.", and after "11" by inserting: ", 20, 21, 22 and 24"; and on line 23 after "Section" by inserting "29." and by deleting "26."; and on line 26 after "file" by inserting "seventy-five" and by deleting "ninety (90)"

and on page 53, line 1, by deleting "whereas a presidential", and on line 2 by deleting "preference primary is established by this Act", and on line 6, after "exist" by inserting: "Sections 12, 13, 14, 15, 16, 17, 18, 19, 23, 25, 26 and 27 of" and by deleting "and".

The Senate Amendment No. 2 to **HB 350** is as follows:

Amend printed copy of Senate Amendment #1 to **HB 350** as follows:

On page 29, line 9, by inserting the word "*and*" before the word "Richardson"; and

On page 29, line 9, by inserting the opening bracket "[" after the word "Richardson" and striking through the semicolon following "Richardson"; and

On page 29, lines 10 and 11, by striking through the lines in their entirety; and

On page 29, line 11, by inserting a closing bracket after the word "Pike"; and

On page 29, line 15, after the word "Piner," by inserting an opening bracket and striking through the words "that part"; and

On page 29, line 16, by striking through the word "of" and inserting a closing bracket before the word "Sandfordtown"; and

On page 29, line 16, after the word "Sandfordtown", by inserting an opening bracket, striking through the words "not contained in the Sixty-third District" and inserting a closing bracket after the word "District"; and

On page 30, line 8, after the words "city of Ludlow and the", by bracketing and striking through the word "city" and inserting in front of the stricken word "city" the word "*precinct*"; and

On page 31, line 5, after the word "precincts:", by inserting an opening bracket and striking through the remainder of line 5 following the bracket; and

On page 31, line 6, by placing a closing bracket after the words "Bromley city," and striking through all of line 6 preceding the bracket.

The Senate Amendment No. 3 to **HB 350** is as follows:

Amend printed copy of **HB 350** as follows:

On page 1, line 1, after "1." by deleting "A NEW SECTION OF KRS CHAPTER 118 IS", and by deleting lines 2-21; and by deleting pages 2, 3, 4, 5, 6, and 7.

And on page 8, by deleting lines 1-21, and on line 22 by deleting "Section 12."

And on page 31, line 26, after "Section" by deleting "13." and by inserting "2."

And on page 33, line 7, after "Section" by deleting "14." and by inserting "3.", and on line 19, by deleting "*, provided, however, that there shall be no primary*", and by deleting line 20.

And on line 21, by deleting "*sixth class in which nonpartisan elections are held*"

And on line 22, by removing the brackets and strikethroughs from "[primary]"

And on line 24, by deleting, "*those provided in the gen-*"

And on line 25, by deleting "*eral election statutes*" and by removing the brackets and strikethroughs from "[in regular elections]"

And on page 34, line 3, by deleting "*, and each candidate in a nonpartisan*", and by deleting, lines 4-6, and on line 7 by deleting "*tions of nomination with county clerk*", and on line 17, by deleting "*for a nonpar-*", and at the beginning of line 18, by deleting "*tisan primary election*"

And on page 35, by deleting lines 7-22, and on line 26, after "applicant" by deleting "*or candidate*"

And on page 36, line 2, after "applicant" by deleting "*or candidate*", and on line 5, after "petitions" by deleting "*prior to a primary election*", and at the beginning of line 10 by deleting "*to primary elections*", and on line 20, after "nomination" by deleting "*in the*", and at the beginning of line 21, by deleting "*primary election*", and at the beginning of line 24 by deleting "*in a primary election*"

And on page 37, line 1, by removing the brackets and strikethroughs from "[applicant's]", and on line 2, by deleting "*of any applicant or*", and at the beginning of line 3 by deleting "*candidate*", and on line 12 by deleting "*in a primary election*"

And on page 38, by deleting lines 6-14, and on line 15, after "Section" by inserting "4." and by deleting "16."

And on page 39, by placing brackets around and striking through "[later than fifty-five (55) days]"

And on page 40, line 23, after "Section" by inserting "5." and by deleting "17."

And on page 42, line 10, after "Section" by inserting "6." and by deleting "18."

And on page 43, line 22, after "Section" by inserting "7." and by deleting "19."

And on page 44, line 14, after "Section" by inserting "8." and by deleting "20."

And on page 45, line 12, after "Section" by inserting "9." and by deleting "21."

And on page 48, line 9, after "Section" by inserting "10." and by deleting "22."

And on page 49, line 24, after "Section" by inserting "11." and by deleting "23."

And on page 52, by deleting lines 18-22, and on line 23, after "Section" by inserting "12." and by deleting "26."

And on page 53, line 1, by deleting "whereas a presidential", and on line 2, by deleting "preference primary is established by this Act".

Representative O'Brien moved that the House concur in the Senate Amendment No. 1 to **HB 350.** Agreed.

Representative O'Brien moved that the House concur in the Senate Amendment No. 2 to **HB 350.** Agreed.

Representative O'Brien moved that the House concur in the Senate Amendment No. 3 to **HB 350.**

On the roll call the vote was yeas 51-Arnold, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, L. Clark, P. Clark, Clarke, Cline, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Ford, Foster, Fryman, Gray, Guenthner, Holbrook, Holloway, R. Jones, Kenton, Little, Long, Lundergan, Maggard, McBee, McElroy, Moberly, Noe, Noland, O'Brien, Perkins, Petty, Rattliff, Reinhardt, B. Richardson, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Turner, Worthington, Yates. Nays 36-Allen, Barrows, Bendl, Blevins, Caldwell, Cowan, Crupper, Curd, Endicott, Farrow, Freibert, Hancock, Handy, Harper, Heleringer, Hines, Johnson, Kidd, Layman, LeMaster, Lile, List, Mann, McNutt, Meyer, Moore, Morris, Nett, Overstreet, Patrick, Pearman, Rapier, Riner, Thomason, Van Horn, Williams.

The motion that the House concur in the Senate Amendment No. 3 to **HB 350** was adopted.

Representative O'Brien moved that **HB 350,** as amended by the Senate be passed.

On the roll call the vote was yeas 53-Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Craddock, Crupper, Cyrus, Dawahare, Deskins, Ellington, Ford, Fryman, Gedling, Gray, Guenthner, Handy, Head, Hines, Holbrook, Holloway, Kenton, Little, Lundergan, Maggard, McBee, Moberly, Nett, Noe, Noland, O'Brien, Patrick, Perkins, Priddy, Rattliff, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Thomason, Worthington, Yates. Nays 45-Allen, Barrows, Bendl, Caldwell, Clarke, Cowan, Curd, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Hancock, Harper, Heleringer, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Mann, McElroy, McNutt, Meyer, Moore, Overstreet, Pearman, Petty, Rapier, Reinhardt, Richards, B. Richardson, Riner, B. Smith, Todd, Turner, Van Horn, White, Williams.

HB 350, as amended by the Senate, was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 350,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 738, by Representatives Petty, Meyer, Mann, Bronger, Donnermeyer, Van Horn, and Holbrook: AN ACT relating to alcoholic beverage control.

HB 739, by Representatives Caldwell and Lile: AN ACT relating to traffic safety.

HB 740, by Representatives Brown, Stone, Cyrus, and Gray: AN ACT relating to collective bargaining by firefighters.

HB 741, by Representative F. Smith: AN ACT relating to taxation of motor vehicles.

HB 742, by Representative Thomason: AN ACT relating to planning and zoning.

HB 743, by Representative O'Brien: AN ACT relating to health care for state employes.

HB 744, by Representatives Robinson, Turner, Freibert, Todd, Allen, Reinhardt, Overstreet, Fryman, Caldwell, Harper, Patrick, Holloway, Rattliff, and Holbrook: AN ACT relating to administrative regulations.

HB 745, by Representative Blevins: AN ACT relating to trapping.

HB 746, by Representative Rapier: AN ACT relating to superintendents of public schools.

HB 747, by Representative Meyer: AN ACT relating to community mental health and mental retardation programs.

HB 748, by Representative Clarke: AN ACT relating to the relationship of the budget act to the Kentucky Revised Statutes.

HB 749, by Representative P. Richardson: AN ACT relating to reorganization.

HR 78, by Representative Kenton: A RESOLUTION adjourning the House of Representatives in honor of the Kentucky Arts Council.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 693, HB 694.**

Appropriations and Revenue: **HB 51, HB 203, HB 26, HB 69.**

Business Organizations and Professions: **SB 46.**

Cities: **HB 707, HB 705, HB 666, SB 210.**

Education: **SB 226, SB 230.**

Judiciary-Criminal: **HB 550, HB 688, HB 481, SB 173, HB 541.**

Report of Committees

The Committee on Banking and Insurance reported **HB 292,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 292, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 307.100 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

As used in *this Act* [~~KRS 307.110 to 307.180~~], unless the context requires otherwise:

(1) "Person" means an individual, corporation, partnership, joint venture, association, business trust, or any other form of business organization.

(2) "Remains" means the bodies of deceased persons, in whatever stage of decomposition, and cremated remains.

(3) "Cemetery" means any one or combination of more than one of the following in a place used or to be used and dedicated or designated for such purposes:

(a) A burial park, for earth interment.

(b) A mausoleum, for entombment.

(c) A columbarium, for inurnment.

(4) "Mausoleum" means a building or structure substantially exposed above ground used or intended to be used for the entombment of human remains, which is sold or offered for sale to the public.

(5) "Columbarium" means a structure or building substantially exposed above ground intended to be used for the inurnment of cremated remains and sold or offered for sale to the public.

(6) "Columbarium niche" means an inurnment space in a columbarium as defined herein.

(7) "Cemetery company" means any person, *who* [~~except a religious society, municipal corporation or fraternal burial association, that~~] conducts the business of a cemetery. *Excepted are small community cemeteries, their agents, representatives or lessees that operate non-profit; have no salaried employes, directors, officers or managers other than maintenance caretakers; are owned, controlled by lot owners; and do not sell any pre-need merchandise or services.*

(8) "Grave space" means a space of ground in a cemetery intended to be used for the interment in the ground of the remains of one human being.

(9) *"Attorney General" means the division of consumer protection* [~~"Department" means the department of banking and securities~~].

(10) "Underground crypt" means a single unit entombment space in preplaced chambers below ground and also known as lawn crypt, westminister *turftop mausoleum* or belowground crypt.

(11) "Bank of underground crypts" means any construction unit of twenty or more underground crypts designed as a part of a belowground crypt program, whether physically connected or not, having a common drainage system.

(12) "Mausoleum crypt" means an entombment space in a mausoleum as defined herein.

(13) "Cemetery merchandise" means urns, memorials, monuments, markers, vases, foundations, memorial bases, and other similar personal property commonly sold by or used in cemeteries.

(14) "Financial institution" means a bank, trust company, federally chartered credit union, or savings and loan association authorized by law to do business in this state.

(15) "Pre-need cemetery merchandise contract" means any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or delivery of cemetery merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person whose body is to be disposed of.

Section 2. KRS 307.110 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

(1) Every cemetery company shall register with the *attorney general* [~~department~~] at least thirty (30) days prior to commencing to do business. Every cemetery in existence as of *the effective date of this Act* [~~June 19, 1976~~] shall register within one hundred eighty (180) days thereafter. Such registration shall be on forms provided by the *attorney general* [~~department~~] and shall contain at least the following information.

(a) The name and location of the cemetery;

(b) The size and type;

(c) The names, addresses and other relative information concerning the owners, officers and directors;

(d) Identification, location and *total amounts deposited in the* [~~size of~~] perpetual care and merchandise trust funds;

(e) Types of services and merchandise sold and whether at need or pre-need.

(2) Every cemetery company shall, within sixty (60) days of any material change of any item required to be reported hereunder, notify the department of such change.

(3) Every cemetery company shall pay a filing fee *of fifty dollars ($50) with its application. Cemetery companies which are currently registered with the department of banking and securities and have paid all fees due shall not pay a filing fee and are not required to make initial application with the attorney general* [~~and an annual renewal fee of $50.00~~].

(4) Every cemetery company shall file an annual report on a form provided by the attorney general containing information as the attorney general may require, but at least the following:

(a) The total amount deposited in the perpetual care and maintenance trust fund, and a listing separately of the total number of grave spaces, underground crypts, mausoleums and niches sold within the last twelve (12) months and the gross selling price of each;

(b) The total mount deposited in the cemetery merchandise trust fund account, and a listing separately of the total number of the different cemetery merchandise sold within the last twelve (12) months and the retail selling price of each; and

(c) The total amount deposited in the preconstruction trust fund accounts, and a listing separately of the total number of mausoleum crypts, columbriums and underground crypts sold within the last twelve (12) months and the retail selling price of each and current balance.

(5) Every such report shall be verified by the owner of the cemetery company and shall be attested to by the accountant, auditor, or other person preparing the same.

(6) Such reports shall not be available to the general public and shall be used only for the lawful purpose of the attorney general's office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Every cemetery company shall keep and maintain adequate records including but not limited to the following:

(1) A cash receipts journal, listing monies received in chronological order. The journal shall contain dates of all such monies received, amounts received, and identification of the purchasers;

(2) A cash disbursement journal, containing the same information as required by subsection (1) of this section for monies disbursed, if a separate bank account is kept exclusively for any such funds, the checkbook could be used as a cash disbursement journal;

(3) A "reconciliation" done at least once every twelve (12) months. The reconciliation shall indicate the beginning balance in the trust account, payments received during the period, interest earned during the period, disbursements during the period, and the ending balance for the period. The ending balance for each period is determined as follows:

Beginning balance
+N Payments received
+N Interest
- Disbursements
Ending Balance

(4) Documentation files, supporting the reconciliation and containing each contract. Each file, consisting of a separate file for each contract, shall include the names and addresses of the purchaser, the beneficiary, and the financial institution in which the trust funds were deposited. Passbooks, certificates, and other evidence of the account with the financial institution shall be kept with the individual files, depending on the safety and security of the files;

(5) All sales, trust fund and accounting records of the cemetery company shall be readily available at the cemetery company's principal place of business in this state at reasonable times for examination by an authorized representative of the attorney general's office;

(6) (a) The necessary expenses of any examination made pursuant to this section shall be paid by the cemetery company; but in no case shall the attorney general or his authorized representatives be paid more than the actual expenses of such examination, not to exceed the lesser of the following amounts: seventy-five dollars ($75) per day for each auditor or five dollars ($5) for each cemetery company's sales contract examined;

(b) The cemetery company may pay for this expense using interest monies which have accrued on the cemetery company's existing cemetery merchandise trust fund accounts or preconstruction trust fund account or perpetual care account. Any withdrawal of interest for this purpose shall be taken as a pro rata share of all of the trust fund accounts. The attorney general shall be advised in writing by the cemetery company when interest monies are the source of payment and shall receive written certification from the financial institution or cemetery company that the withdrawal was a pro rata share.

(7) This section shall apply to examinations of all cemetery company's contracts whether entered into prior to or after the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) The attorney general's office may hire a special independent auditor of choice to do a complete audit of books, both as to contracts entered into prior to and after the effective date of this Act, to determine compliance with the cemetery laws, if the attorney general determines any discrepancy as a result of his examination.

(2) In any action brought under this chapter in which the Commonwealth prevails, the court shall award cost incurred by the attorney general for the special independent auditor.

Section 5. KRS 307.130 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

(1) No cemetery company shall establish, or operate if already established, a cemetery unless it shall first provide for the future care and maintenance of such cemetery, and to accomplish this purpose shall cause to be established in a bank authorized by law to administer trust funds an irrevocable trust fund to be known

as a perpetual care and maintenance fund. The income of such funds shall be used solely for the general care, maintenance, and embellishment of the cemetery.

(2) (a) Every cemetery company shall place the following amounts into the perpetual care and maintenance fund within forty-five (45) days of receipt of *each* [~~the final~~] payment of each sale which occurs or contract of sale entered into after June 19, 1976*:*[~~,~~]

1.[~~(i)~~] Twenty percent of the gross selling price of each grave space, with a minimum of twenty dollars ($20) per grave space*;*[~~,~~]

2.[~~(ii)~~] Underground crypt, *twenty percent (20%)* [~~5%~~] of the gross selling price with a minimum of twenty-five dollars ($25) per crypt*;*[~~,~~]

3.[~~(iii)~~] Mausoleum crypt, *twenty percent (20%)* [~~5%~~] of the gross selling price with a minimum of fifty dollars ($50) per mausoleum crypt*; and*[~~,~~]

4.[~~(iv)~~] Columbarium niche, *twenty percent (20%)* [~~5%~~] of the gross selling price with a minimum of fifteen dollars ($15) per niche.

(b) For the purposes of this section, "gross selling price" shall not include interest, carrying charges or finance charges.

(c) Every cemetery company hereinafter established shall create and maintain a perpetual care and maintenance fund, depositing therein an initial deposit as listed below, and shall submit proof thereof to the *attorney general* [~~department~~] prior to the offering for sale of any burial rights. Any payment required under subparagraph (a) of this *subsection* [~~paragraph~~] shall be credited against the initial deposit until the required sum has been reached:

1.[~~(i)~~] In counties of fewer than 50,000 persons, $10,000;

2.[~~(ii)~~] In counties of 50,000 to 99,999 persons, $15,000;

3.[~~(iii)~~] In counties of 100,000 or more persons, $25,000.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All payments of money made to any person, partnership, association or corporation upon any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or delivery of cemetery merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person whose body is to be disposed of, are held to be trust funds. The person, partnership, association or corporation receiving the payments shall deposit within thirty (30) days of receipt thereof all payments in a trust account with a financial institution. The trustee shall be the financial institution holding said funds. All of the interest, dividends, increases or accretions of whatever nature earned by the funds deposited in a trust account shall remain with the principal of such account and become a part thereof, subject to all of the regulations concerning the principal of said fund herein contained.

(2) All trust funds mentioned in this section shall be deposited in the name of the cemetery company, with the financial institution as trustee, within thirty (30) days after receipt thereof, with a financial institution and shall be held together with the interest, dividends, or accretions thereon, in trust, subject to the provisions of this Act. The person at the time of making deposit or investment shall furnish to the financial institution the name of each payor, and the amount of payment on each account for which the deposit or investment is being made.

(3) All payments made under the agreement contract or plan are and shall remain trust funds with the financial institution, until the financial institution receives a certified statement from the cemetery company stating the delivery of all merchandise by attachment to the realty, or permanent installation of the merchandise has been completed and full performance of all services called for by the agreement, contract or plan, except where payment is made pursuant to a request for a refund or cancellation under this Act.

(4) Deposits to such funds and the amounts deposited may be commingled, but the accounting records shall establish a separate account for each prepaid contract and shall show amounts deposited and the income and loss occurring thereon with respect to each contract.

(5) The trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of this Act, and shall not be liable to any person for such reliance.

(6) Any person selling a pre-need cemetery merchandise contract shall collect from each purchaser a service charge of five dollars ($5), made payable to the attorney general's office, and all of which fees so collected shall be remitted by the person collecting them to the attorney general at least once each month, and such funds shall be used by the attorney general in administering this chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) If for any reason a person who has entered into a contract for the sale of cemetery merchandise and has made deposits to the trust fund herein required to be made cannot or does not provide the cemetery merchandise called for by the contract after request in writing to do so, the purchaser or his heirs or assigns or duly authorized representatives shall be entitled to receive the following: the deposit to the credit of that particular contract, all income those funds have earned; and from the cemetery, the remainder of the

purchase price. Written instruction to the trustee to refund the amount of money on deposit, or an affidavit by either the purchaser or one of his heirs or assigns or duly authorized representative, stating that the cemetery merchandise was not provided shall be sufficient authority for the trustee to make refund of the deposit monies to the person submitting the affidavit. The trustee shall not be held responsible for any such refunds made on account of the person's written direction or an affidavit submitted in accord with this section. However, nothing herein contained shall relieve any person from any liability for nonperformance of the contract terms. Except, however, in the event such person cannot deliver the cemetery merchandise sold because of a national emergency, the provision of this paragraph shall not apply.

Section 8. KRS 307.170 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

(1) No person, except a cemetery company, [~~or a religious society, municipal corporation or fraternal burial association~~] shall engage in the business of the construction for sale, sale reservation or contract for sale or otherwise commercially deal in the development or sale of mausoleum or underground crypts or columbariums.

(2) *Before a sale, contract for sale, reservation for sale or agreement for sale* [~~Every person intending to engage in the sale~~] of a mausoleum crypt, underground crypt, or columbarium niche prior to the completion of the construction thereof, *the cemetery company* shall give notice in writing to the *attorney general* [~~department~~] of the commencement of such sale at least thirty (30) days prior thereto *and register with the attorney general. Such registration shall be on forms provided by the attorney general.*

(3) Every person engaged in the sale of a mausoleum crypt, underground crypt or columbarium niche shall commence construction thereof within *twelve (12)* [~~thirty-six (36)~~] months of the date of such sale and shall complete such construction within *thirty-six (36)* [~~seventy-two (72)~~] months of the date of such sale. *A* [~~Failure to so commence or complete construction shall entitle any purchaser, on demand, to recover all sums paid on the purchase price, plus interest thereon at the rate of six percent per annum; provided, however, that any~~] delay caused by strike, shortage of materials, civil disorder, natural disaster or any like occurrence beyond the control of such person shall extend the time of such commencement and completion by the length of such delay.

(4) A cemetery company which plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust account. The trust account shall be administered and operated in the same manner as the merchandise trust account provided for in this chapter and shall be exclusive of the merchandise trust account or such other trust accounts or funds that may be required by law.

(5) The cemetery company shall place seventy-five percent (75%) of all payments of money made to any person pursuant to any agreement, contract or any series or combination of agreements or contracts which are for the purchase of sections in a mausoleum, columbarium, or any kind of underground crypt which at the time of the payment of money have not been completely and totally constructed, in a trust fund account in a financial institution within thirty (30) days of receipt thereof.

(6) All trust funds mentioned in this section shall be deposited in the name of the cemetery company, with the financial institution as trustee, within thirty (30) days after receipt thereof, with a financial institution and shall be held together with the interest, dividends, or accretions thereon, in trust, subject to the provisions of this Act. The person at the time of making deposit or investment shall furnish to the financial institution the name of each payor, and the amount of payment on each account for which the deposit or investment is being made.

(7) Deposits to such funds and the amounts deposited may be commingled, but the accounting records shall establish a separate account for each prepaid contract and shall show amounts deposited and the income and loss occurring thereon with respect to each contract.

(8) All payments made to the preconstruction trust fund account shall remain in the trust fund with the financial institution until the financial institution receives a certified statement from the cemetery company stating that the particular project for which the preconstruction trust fund has been established is totally completed. However, during the construction of the mausoleum or bank of crypts, the trustee may, in his discretion, authorize a specific percentage of the funds to be withdrawn when it appears that at least an equivalent percentage of construction has been completed.

(9) A trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of this Act, and shall not be liable to any person for such reliance.

(10) If a mausoleum section or bank of underground crypts is not completed within the time limits set out in this Act, the financial institution acting as trustee, if any, shall contract for and cause said project to be completed and paid therefor from the trust account funds deposited to the project's account, paying any balance, less cost and expenses, to the cemetery company. In the event there is no corporate trustee, the attorney general shall appoint a committee to serve as trustees to trust account funds deposited to the project's account, paying any balance, less cost and expenses, to the cemetery company.

(11) If it is determined by the trustee that there is not enough money in the trust fund account to complete the project, the trustee shall make a refund of all monies held to all purchasers, or his heirs or

assigns, in the amount of the deposit to the credit of their particular contract and all income those funds have earned. The purchasers shall be entitled to receive any remainder of the purchase price paid from the cemetery company. However, nothing herein contained shall relieve any person from any liability for nonperformance of the contract terms. Except, however, in the event such person cannot construct the project because of a national emergency, the provisions of this subsection shall not apply.

(12) Upon written notification to the cemetery company, the personal representative of any purchaser of such space who dies before completion of construction shall be entitled to a refund of all monies paid into the preconstruction trust fund for such space, including any income earned thereon, and from the cemetery, the remainder of the purchase price paid.

(13) Any person selling preconstruction mausoleum, columbarium or underground crypt contracts shall collect from each purchaser a service charge of five dollars ($5) made payable to the attorney general's office, and all of which fees so collected shall be remitted by the person collecting them to the attorney general at least once each month, and such funds shall be used by the attorney general in administering this chapter.

SECTION 9. KRS 307.180 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 367 TO READ AS FOLLOWS:

Every person offering for sale any mausoleum crypt, underground crypt or columbarium niche shall provide facilities for temporary entombment or inurnment at the cemetery in which the crypt or niche purchased is to be located.

Section 10. KRS 307.160 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

Whenever any contract for sale shall be entered into in which items of cemetery merchandise and rights to interment, inurnment or entombment are included, without allocation of the gross sale price among the items sold, the application of payments received under the contract shall be allocated, first to the *purchase of real estate for* [~~right to~~] interment, inurnment or entombment, second to items of cemetery merchandise relating to memorialization and third, to items [~~of cemetery merchandise~~] relating to the disposition of the remains of a dead human being, *including pre-need funeral merchandise and services,* unless some other allocation is clearly provided in the contract.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any provision of a contract which purports to waive any provision of this Act shall be null and void.

SECTION 12. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A sale of any cemetery or any part thereof or of any related personal property by a cemetery owner to a purchaser, is subject to the following conditions:

(1) The purchaser is liable for any shortages existing before or after the sale in the perpetual care fund and cemetery merchandise trust and preconstruction trust fund required by this chapter.

(2) The purchaser shall perform all obligations imposed under this Act, all obligations imposed under contracts made by the selling cemetery owner or any prior cemetery owner relating to burial or interment rights or to the sale of the personal property or services described in this Act and any other related obligations.

Excepted from this section is: the sale of burial rights, services, or merchandise to a person for his personal or family burial or interment.

SECTION 13. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Failure to comply with any of the provisions of this Act shall make the owners or shareholders of such cemetery company personally liable, jointly and severally, for the deficiency existing in the trust funds and for any other civil remedy allowed by law.

(2) In addition to the liabilities declared, the person who brings suit and recovers from an owner or shareholder of a company, shall also recover his reasonable attorney's fees, the amount to be fixed and adjudged by the court before whom the case is tried.

SECTION 14. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All of the remedies, powers, and the duties provided for the attorney general by KRS 367.190 to 367.300 and 367.990 appertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by this Act and the cemetery laws existing prior to this Act.

(2) Nothing in this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the attorney general which he is authorized to exercise or perform under any other provision of law. Furthermore, the attorney general may establish such rules and regulations as are necessary to carry out these provisions.

SECTION 15. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

All fees and charges collected and paid into the state treasury under the provisions of this Act shall be *credited to a revolving trust or agency fund account for the attorney general and shall be used for the administration of this Act.*

SECTION 16. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any person or corporation which is subject to the provisions of this Act and violates the trust provisions found in this Act shall be guilty of a Class C felony. Either the attorney general or the appropriate commonwealth attorney shall have the authority to prosecute violators. Each violation of any provision of this Act shall be deemed a separate offense.

Section 17. The following KRS sections are repealed:

307.120	Records.
307.140	Merchandise trust fund.
307.150	Financial reports.
307.991	Penalty.

The Committee Substitute to **HB 292** is as follows:

HB 292, AN ACT relating to cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 307.100 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

As used in *this Act* [~~KRS 307.110 to 307.180~~], unless the context requires otherwise:

(1) "Person" means an individual, corporation, partnership, joint venture, association, business trust, or any other form of business organization*; provided, however, that an individual employe of an entity registered pursuant to this Act shall not be required to comply with the registration requirement herein.*

(2) "Remains" means the bodies of deceased persons, in whatever stage of decomposition, and cremated remains.

(3) "Cemetery" means any one or combination of more than one of the following in a place used or to be used and dedicated or designated for such purposes:

(a) A burial park, for earth interment.

(b) A mausoleum, for entombment.

(c) A columbarium, for inurnment.

(4) "Mausoleum" means a building or structure substantially exposed above ground used or intended to be used for the entombment of human remains, which is sold or offered for sale to the public.

(5) "Columbarium" means a structure or building substantially exposed above ground intended to be used for the inurnment of cremated remains and sold or offered for sale to the public.

(6) "Columbarium niche" means an inurnment space in a columbarium as defined herein.

(7) "Cemetery company" means any person, except a religious society, municipal corporation or fraternal burial association, that conducts the business of a cemetery.

(8) "Grave space" means a space of ground in a cemetery intended to be used for the interment in the ground of the remains of one human being.

(9) *"Attorney general" means the division of consumer protection* [~~"Department" means the department of banking and securities~~].

(10) "Underground crypt" means a single unit entombment space in preplaced chambers below ground and also known as lawn crypt, westminister or belowground crypt.

(11) "Bank of underground crypts" means any construction unit of twenty or more underground crypts designed as a part of a belowground crypt program, whether physically connected or not, having a common drainage system.

(12) "Mausoleum crypt" means an entombment space in a mausoleum as defined herein.

(13) "Cemetery merchandise" means urns, memorials, monuments, markers, vases, foundations, memorial bases, and other similar personal property commonly sold by or used in cemeteries.

(14) "Financial institution" means a bank, trust company, federally chartered credit union, or savings and loan association authorized by law to do business in this state.

Section 2. KRS 307.110 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

(1) *Every person engaged in the sale of any cemetery merchandise contract and* every cemetery company, *hereinafter referred to as registrants,* shall register with the *attorney general* [~~department~~] at least thirty (30) days prior to commencing to do business. Every cemetery in existence as of *the effective date of this Act* [~~June 19, 1976~~] shall register within one hundred eighty (180) days thereafter. Such registration shall be

on forms provided by the *attorney general* [~~department~~] and shall contain at least the following information.

(a) The name and location of the cemetery;

(b) The size and type;

(c) The names, addresses and other relative information concerning the owners, officers and directors;

(d) Identification, location and *total amounts deposited in the* [~~size of~~] perpetual care and merchandise trust funds;

(e) Types of services and merchandise sold and whether at need or pre-need.

(2) Every *registrant* [~~cemetery company~~] shall, within sixty (60) days of any material change of any item required to be reported hereunder, notify the department of such change.

(3) Every *registrant* [~~cemetery company~~] shall pay a filing fee *of fifty dollars ($50) with its application. Cemetery companies which are currently registered with the department of banking and securities and have paid all fees due shall not pay a filing fee and are not required to make initial application with the attorney general* [~~and an annual renewal fee of $50.00~~].

(4) Every registrant shall file an annual report on a form provided by the attorney general containing information as the attorney general may reasonably require, but at least the following:

(a) The total amount deposited in the perpetual care and maintenance trust fund, and listing of the total number of grave spaces, underground crypts, mausoleums and niches sold within the last twelve (12) months and the gross selling price of each;

(b) The total amount deposited in the cemetery merchandise trust fund account, and a listing of the total number of the different cemetery merchandise sold within the last twelve (12) months and the retail selling price of each; and

(c) The total amount deposited in the preconstruction trust fund accounts, and a listing of the total number of mausoleum crypts, niches and underground crypts sold within the last twelve (12) months and the retail selling price of each and current balance.

(5) Every such report shall be verified by the registrant and shall be attested to by any other person preparing the same.

(6) Such reports shall not be available to the general public and shall be used only for the lawful purpose of the attorney general's office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Every registrant shall keep and maintain adequate records including but not limited to the following:

(1) A cash receipts journal, or its equivalent, listing monies received in chronological order. The journal shall contain dates of all such monies received, amounts received, and identification of the purchasers;

(2) A cash disbursement journal, or its equivalent, containing the same information as required by subsection (1) of this section for monies disbursed; if a separate bank account is kept exclusively for any such funds, the checkbook could be used as a cash disbursement journal;

(3) A "reconciliation" done at least once every twelve (12) months. The reconciliation shall indicate the beginning balance in the trust account, payments received during the period, interest earned during the period, disbursements during the period, and the ending balance for the period. The ending balance for each period is determined as follows:

Beginning balance
+N Payments received
+N Interest
- Disbursements
Ending Balance

(4) All contracts, sales, trust fund and accounting records of the registrant shall be readily available at the registrant's principal place of business in this state at reasonable times for examination by an authorized representative of the attorney general's office;

(5) (a) The necessary expenses of any reasonable examination made pursuant to this section shall be paid by the registrant; but in no case shall the attorney general or his authorized representatives be paid more than the actual expenses of such examination, not to exceed the lesser of the following amounts: seventy-five dollars ($75) per day for each auditor or five dollars ($5) for each registrant's sales contract examined. In any event, the cost of such examination shall not exceed a total of one thousand dollars ($1,000) during any twelve (12) month period;

(b) The registrant may pay for this expense using interest monies which have accrued on the registrant's existing cemetery merchandise trust fund accounts or preconstruction trust fund account or perpetual care account. Any withdrawal of interest for this purpose shall be taken as a pro rata share of all of the trust fund accounts. The attorney general shall be advised in writing by the registrant when interest monies are the source of payment and shall receive written certification from the financial institution or registrant that the withdrawal was a pro rata share;

(6) This section shall apply to examinations of all registrant's contracts whether entered into prior to or after the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

If the attorney general determines any material discrepancy as a result of his examination, the attorney general's office may hire a special independent auditor of choice to do a complete audit of books, both as to contracts entered into prior to and after the effective date of this Act, to determine compliance with the cemetery laws; in any action brought under this chapter in which the Commonwealth prevails, the court shall award cost incurred by the attorney general for the special independent auditor.

Section 5. KRS 307.130 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

(1) No cemetery company shall establish, or operate if already established, a cemetery unless it shall first provide for the future care and maintenance of such cemetery, and to accomplish this purpose shall cause to be established in a *financial institution* [~~bank~~] authorized by law to administer trust funds an irrevocable trust fund to be known as a perpetual care and maintenance fund. The income of such funds shall be used solely for the general care, maintenance, and embellishment of the cemetery.

(2) (a) Every cemetery company shall place the following amounts into the perpetual care and maintenance fund within forty-five (45) days of receipt of the final payment of each sale which occurs or contract of sale entered into after June 19, 1976*:*[~~.~~]

(i) Twenty percent (20%) of the gross selling price of each grave space, with a minimum of twenty dollars ($20) per grave space*;*[~~.~~]

(ii) Underground crypt, five percent (5%) of the gross selling price with a minimum of twenty-five dollars ($25) per crypt*;*[~~.~~]

(iii) Mausoleum crypt, five percent (5%) of the gross selling price with a minimum of fifty dollars ($50) per mausoleum crypt*;*[~~.~~]

(iv) Columbarium niche, five percent (5%) of the gross selling price with a minimum of fifteen dollars ($15) per niche.

(b) For the purposes of this section, "gross selling price" shall not include interest, carrying charges or finance charges.

(c) Every cemetery company hereinafter established shall create and maintain a perpetual care and maintenance fund, depositing therein an initial deposit as listed below, and shall submit proof thereof to the department prior to the offering for sale of any burial rights. Any payment required under *paragraph* [~~subparagraph~~] (a) of this *subsection* [~~paragraph~~] shall be credited against the initial deposit until the required sum has been reached:

(i) In counties of fewer than 50,000 persons, $10,000;

(ii) In counties of 50,000 to 99,999 persons, $15,000;

(iii) In counties of 100,000 or more persons, $25,000.

Section 6. KRS 307.140 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

(1) Whenever any person, except a religious society, municipal corporation, fraternal or nonprofit burial association, shall accept money in connection with a sale, a contract for sale or a series of contracts or agreements for the sale of cemetery merchandise, that person shall deposit in a trust fund established for that purpose with a *financial institution* [~~bank or trust company~~] authorized by law to administer trust funds, within ninety (90) days following the close of that person's fiscal year an amount equal to the procurement cost of the cemetery merchandise plus 10 percent of that cost, divided by a denominator equal to the number of years of the term of the sale contract; provided, however, any sale, contract or agreement for the sale of cemetery merchandise, the terms of which require payment in full within twenty-four (24) months or less and delivery of the cemetery merchandise within ninety (90) days of the final payment thereon shall be excluded from the requirements of this section.

$$\frac{\text{procurement cost} + (.10 \times \text{procurement cost})}{\text{number of years of contract}} = \begin{array}{c}\text{Trust}\\ \text{Deposit}\end{array}$$

(2) In any year in which any cemetery merchandise shall be paid for in full, the person making the sale shall deposit in the trust fund an amount which, when added to previous deposits, is sufficient to equal 110 percent of procurement cost as computed in the year in which such final payment is received.

(3) The person making the sale shall determine and substantiate by wholesale price list of a manufacturer or supplier of the cemetery merchandise sold by that person, or by a cost analysis of cemetery merchandise manufactured by that person, which cost in any case, shall be adjusted and verified annually to the department, to reflect any change in procurement cost.

(4) When the person making the sale shall certify in detail to the trustee that an item of cemetery merchandise has been delivered to the purchaser, the trustee shall disburse the then procurement cost of that item to the person making the sale.

(5) For purposes of this section, procurement cost shall be determined to be the cost of the item of

cemetery merchandise as of January 1 of the year in which the sale occurs or in which the contract for sale is entered into, and for the purposes of subsection (1) of this section, shall be the basis for the annual deposits required, except that in the year in which final payment is received upon any contract for sale, the person making the sale shall deposit an amount sufficient, when added to previous deposits, to equal the procurement cost in that year plus 10 percent of that cost.

(6) The principal and net income deposited to the merchandise trust fund shall remain therein and be reinvested and compounded.

(7) In any year in which the total of funds held in a merchandise trust fund shall exceed procurement cost plus 10% of such cost of all items of cemetery merchandise sold and undelivered, the trustee shall, upon written request of the person making the sales, disburse to such person such excess funds to the extent only of interest earned on such fund.

(8) Every trustee under this section shall be authorized to invest the funds deposited with him as a prudent man and in accordance with the powers, duties and authority conferred upon such trustee under the laws of Kentucky.

(9) If for any reason a person who has entered into a contract for the sale of cemetery merchandise and has made the deposits to the trust fund herein required to be made cannot or does not provide the cemetery merchandise called for by the contract after request in writing to do so, the purchaser or his heirs or assigns or duly authorized representative shall have the right to provide the cemetery merchandise and shall be entitled to receive the deposit to the credit of that particular contract upon delivery of the cemetery merchandise. Written instruction to the trustee to refund the amount of money on deposit, or an affidavit by either the purchaser or one of his heirs or assigns or duly authorized representative, stating that the cemetery merchandise was not provided shall be sufficient authority for the trustee to make refund of the deposit moneys to the person submitting the affidavit. The trustee shall not be held responsible for any such refunds made on account of the person's written direction or an affidavit submitted in accord with this section. However, nothing herein contained shall relieve any person from any liability for nonperformance of the contract terms. Except, however, in the event such person cannot deliver the cemetery merchandise sold because of a national emergency, the provisions of this *subsection* [~~paragraph~~] shall not apply.

(10) *(a) The person making a sale under this section shall have the trust fund bonded by a professional or commercial bonding company.*

(b) If the person cannot obtain bonding, the person shall send to the attorney general each month a copy of each sales contract of a pre-need cemetery sale with full purchase price stated therein, and shall send to the attorney general each month a payment of five dollars ($5) for each said contract entered into to be used by the attorney general in administering this chapter [~~The person creating the fund shall, within 105 days following the close of his fiscal year, file a financial report of the merchandise trust fund with the department, setting forth the principal, the investments and payments made, and the income earned and disbursed~~].

Section 7. KRS 307.170 is repealed and re-enacted as a new section of KRS Chapter 367 and amended to read as follows:

(1) [~~No person, except a cemetery company or a religious society, municipal corporation or fraternal burial association shall engage in the business of the construction for sale, sale reservation or contract for sale or otherwise commercially deal in the development or sale of mausoleum or underground crypts or columbariums.~~

~~(2)~~] Every *cemetery company before engaging in a sale, contract for sale, reservation for sale or agreement for* [~~person intending to engage in the~~] sale of a mausoleum crypt *within a mausoleum*, underground crypt *within a crypt section*, or columbarium niche *within a mausoleum* prior to the completion of the construction thereof, shall give notice in writing to the *attorney general* [~~department~~] of the commencement of such sale at least thirty (30) days prior thereto *and register with the attorney general. Such registration shall be on forms provided by the attorney general.*

(2)[~~(3)~~] Every *cemetery company* [~~person~~] engaged in the sale of a mausoleum crypt, underground crypt or columbarium niche shall commence construction thereof within *twenty-four (24)* [~~thirty-six (36)~~] months of the date of such sale and shall complete such construction within *sixty (60)* [~~seventy-two (72)~~] months of the date of such sale. *A* [~~Failure to so commence or complete construction shall entitle any purchaser, on demand, to recover all sums paid on the purchase price, plus interest thereon at the rate of six percent per annum; provided, however, that any~~] delay caused by strike, *national emergency*, shortage of materials, civil disorder, natural disaster or any like occurrence beyond the control of such person shall extend the time of such commencement and completion by the length of such delay. *This subsection shall not apply to the sale of mausoleum crypts, underground crypts or columbarium niches if there has been any sale in the same project prior to the effective date of this Act. Prior projects shall be subject to the time limits set out in the law in effect prior to this Act.*

(3) Every cemetery company who plans to offer for sale space in a section of a mausoleum or bank of underground crypts prior to its construction shall establish a preconstruction trust account. The trust account shall be administered and operated in the same manner as the merchandise trust account provided for in this chapter and shall be exclusive of the merchandise trust account or such other trust accounts or funds that may

be required by law.

(4) Every cemetery company shall place thirty-six percent (36%), not including interest or finance charges, of all payments of money made to any cemetery company pursuant to any agreement, contract or any series or combination of agreements or contracts which are for the purchase of section(s) in a mausoleum, columbarium, or any kind of underground crypt which at the time of the payment of money have not been completely and totally constructed, in a trust fund account in a financial institution within thirty (30) days after each calendar quarter of operations. Excepted therefrom, however, are cemetery companies which have constructed in the past their own mausoleum using primarily equipment owned by the self-constructing cemetery company and their own personnel with a minimum of subcontracting, and in that event there shall be deposited a minimum of twenty percent (20%) of all payments of money, subject, however, to the actual cost. If, from project to project, their actual cost is in excess of twenty percent (20%), the full cost percentage shall be deposited from project to project, not to exceed thirty-six percent (36%). At the time of notification to the attorney general's office the self-constructing mausoleum cemetery company shall also notify the attorney general that he intends to self-construct and the percentage of contribution of trust that is required.

(5) All trust funds mentioned in this section shall be deposited in the name of the cemetery company depositing said funds, with the financial institution as trustee, and shall be held together with the interest, dividends, or accretions thereon, in trust, subject to the provisions of this Act. The cemetery company at the time of making deposit or investment shall furnish to the financial institution the name of each payor, and the amount of payment on each account for which the deposit or investment is being made.

(6) Deposits to such funds and the amounts deposited may be commingled, but the accounting records shall establish a separate account for each prepaid contract and shall show amounts deposited and the income and loss occurring thereon with respect to each contract.

(7) All payments made to the preconstruction trust fund account shall remain in the trust fund with the financial institution until the financial institution receives a certified statement from the depositor stating that the particular project for which the preconstruction trust fund has been established is totally completed. During the construction stage, trust funds may be withdrawn by presenting the trustee with appropriate evidence of expenditure for construction cost. The trustee shall thereupon disburse monies from the trust fund to pay for the expenses of construction presented for payment.

(8) A trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of this Act, and shall not be liable to any person for such reliance.

(9) If a mausoleum section or bank of underground crypts is not completed within the time limits set out in this Act, the financial institution acting as trustee, if any, may contract for and cause said project to be completed and paid therefor from the trust account funds deposited to the project's account, paying any balance, less cost and expenses, to the depositor. In the event there is no corporate trustee, or the trustee chooses not to serve in the capacity to complete construction, the attorney general shall appoint a committee to serve as trustees to trust account funds deposited to the project's account, paying any balance, less cost and expenses, to the cemetery company.

(10) If it is determined by the trustee after the expiration of the time of construction set out above that there is not enough money in the trust fund account to complete the project, the trustee shall make a refund of all monies held to all purchasers, or his heirs or assigns, in the amount of the deposit to the credit of their particular contract and all income those funds have earned. The purchasers shall be entitled to receive any remainder of the purchase price paid from the depositor. However, nothing herein contained shall relieve any cemetery company from any liability for nonperformance of the contract terms.

(11) If temporary entombment or inurnment is not used, upon written notification to the seller, the personal representative of any purchaser of such space who dies before completion of construction shall be entitled to a refund of all monies paid into the preconstruction trust fund for such space, including any income earned thereon, and from the seller, the remainder of the purchase price paid.

(12) In lieu of the trust fund deposits required herein, the cemetery company may post with the attorney general, division of consumer protection, a good and sufficient bond by a surety company licensed to do business in Kentucky and in an amount sufficient to cover all payments made by or on account of purchasers who have not received the purchased property and services. This bond shall be held for the benefit of any purchaser, or his or her heir or assign or duly authorized representative, who suffers a loss of money paid for a preconstructed mausoleum crypt or niche or underground crypt after the effective date of this Act due to the insolvency of the registrant, or failure to construct within the time limits set out herein. If a bond is posted, the attorney general's office shall receive sixty (60) days' written notice in the event of cancellation. On or before the cancellation date, the cemetery company shall comply with the trust fund requirements herein or post another good and sufficient bond.

(13) Any cemetery company selling preconstruction mausoleum, columbarium or underground crypt contracts shall pay to the attorney general five dollars ($5) for each sale of said contract and all of which fees shall be remitted by the cemetery company collecting them to the attorney general at least once each month, and such funds shall be used by the attorney general in administering this chapter.

SECTION 8. KRS 307.180 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS

CHAPTER 367 TO READ AS FOLLOWS:

Every cemetery company offering for sale any mausoleum crypt, underground crypt or columbarium niche shall provide facilities for temporary entombment or inurnment at the cemetery in which the crypt or niche purchased is to be located.

SECTION 9. KRS 307.160 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 367 TO READ AS FOLLOWS:

Whenever any contract for sale shall be entered into in which items of cemetery merchandise and rights to interment, inurnment or entombment are included, without allocation of the gross sale price among the items sold, the application of payments received under the contract shall be allocated, first to the right to interment, inurnment or entombment, second to items of cemetery merchandise relating to memorialization and third, to items of cemetery merchandise relating to the disposition of the remains of a dead human being, unless some other allocation is clearly provided in the contract.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All of the remedies, powers, and the duties provided for the attorney general by KRS 367.190 to 367.300 and 367.990 appertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by this Act and the cemetery laws existing prior to this Act.

(2) Nothing in this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the attorney general which he is authorized to exercise or perform under any other provision of law. Furthermore, the attorney general may establish such rules and regulations as are necessary to carry out these provisions.

SECTION 11. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

All fees and charges collected and paid into the state treasury under the provisions of this Act that are to be used for the administration of this Act shall be credited to a revolving trust or agency fund account for the attorney general.

Section 12. KRS 307.190 is amended to read as follows:

This Act [~~KRS 307.100 to 307.180~~] may be referred to as the Kentucky Cemetery Law.

SECTION 13. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any person or corporation which is subject to the provisions of this Act and willfully violates the trust provisions found in this Act shall be guilty of a Class D felony. Either the attorney general or the appropriate commonwealth attorney shall have the authority to prosecute violators. Each violation of any provision of this Act shall be deemed a separate offense.

Section 14. The following KRS sections are repealed:

307.120	Records.
307.150	Financial reports.
307.991	Penalty.

The Committee on Business Organizations and Professions reported **HB 246, HB 517** with Committee Amendment attached thereto, and **HB 493** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 246, AN ACT relating to the uniform commercial code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested or by registered mail of such lien, the name and address of the debtor and proper description of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) If any grain or soybean crop subject to the lien of a security interest is sold to any entity which is a bona fide purchaser for value and which holds a current grain storage license issued by the Commonwealth of

Kentucky or a current federal warehouse storage license, in the ordinary course of business, such entity shall take title to such crop free and clear of any such lien, and shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested or by registered mail, of such lien, the name and address of the debtor and proper description of the property subject to the lien is given to the entity purchasing said crop prior to the payment of the proceeds of purchase to the owner or producer of such grain or soybean crop.

(4) If any livestock subject to the lien of a security interest is sold [~~at public auction~~] through a stockyard licensed by the Commonwealth of Kentucky in the ordinary course of business, a bona fide purchaser for value of such livestock shall take title thereto free and clear of any such lien, and the stockyard and selling agents selling such livestock shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested or by registered mail of such lien, the name and address of the debtor and proper description of the livestock subject to lien is given to the stockyard prior to the time of sale.

(5) In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $500 (other than fixtures, see KRS 355.9-313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.

(6) If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identification of the horse subject to lien are given to the organization prior to the time of sale.

HB 517, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person, whether in dry or wet territory, to:

(a) Have in his possession, custody or control any still or apparatus commonly used or intended to be used in the manufacture of alcoholic beverages which is in operating order or condition and capable of producing alcoholic beverages and which is not in the possession, custody or control of any person licensed under the provisions of KRS 243.030;

(b) Possess, remove, conceal or transfer, in any manner, distilled spirits upon which the applicable federal and state taxes have not been paid as required by law.

(2) Any person who violates this section shall be fined not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000) for each offense and shall be imprisoned in the penitentiary for not less than one (1) year nor more than five (5) years.

Section 2. KRS 244.180 is amended to read as follows:

The following property, *whether* [~~even though~~] found and seized in dry *or wet* territory, is contraband:

(1) Any apparatus commonly used or intended to be used in the manufacture of alcoholic beverages and not registered in the office of a collector of internal revenue for the United States. The burden of proof that the apparatus is so registered shall be on the defendant.

(2) Any and all material, equipment, implements, devices, firearms and other property used or intended for use directly and immediately in connection with the unlawful traffic in alcoholic beverages.

(3) Any alcoholic beverages in the possession of anyone not entitled by law to possess them.

(4) Any alcoholic beverages to which the revenue stamps or tax crowns have not been affixed as required by KRS 243.720 to 243.850.

(5) Any alcoholic beverages in a container of a size prohibited by law or prohibited to the particular party in whose possession they are found.

(6) Any distilled spirits or wine not kept in a locked department when required by KRS 244.290 to be kept there.

(7) Any vehicle, watercraft or aircraft in which any person is illegally possessing or transporting alcoholic beverages. "Illegally possessing" means and includes the holding of any alcoholic liquors unless lawfully acquired and intended for lawful uses.

The Committee Amendment No. 1 to **HB 517** is as follows:

Amend printed copy of **HB 517**, on page 3, after line 2, by adding the following new language:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

No brewer shall discriminate directly or indirectly concerning prices charged among distributors for malt beverages bearing the same brand and trade name and of like size and quality."

HB 493, AN ACT relating to emergency medical technicians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.964 is amended to read as follows:

The cabinet for human resources shall adopt rules and regulations relating to emergency medical technicians. The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services*; however, no additional testing or course work shall be required for recertification, except submission of proof of continuing education or in-service training of twenty-four (24) hours every two (2) years.*

The Committee Substitute to **HB 493** is as follows:

HB 493, AN ACT relating to emergency medical technicians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.964 is amended to read as follows:

The cabinet for human resources shall adopt rules and regulations relating to emergency medical technicians. The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services*; however, no additional testing or course work shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills. Recertification programs shall be organized to include continuing education and in-service training approved by the cabinet.*

The Committee on Judiciary-Criminal reported **HB 415,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 415, AN ACT relating to theft and related offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.030 is amended to read as follows:

(1) A person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is*:*

(a) A class A misdemeanor if the value of the property is less than five hundred dollars ($500);

(b) A class D felony if the value of the property is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the property is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the property is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the property is $100 or more, in which case it is a Class D felony~~].

Section 2. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is:

(a) A class A misdemeanor if the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is less than five hundred dollars ($500);

(b) A class D felony if the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is $100 or more, in which case it is a Class D felony~~].

Section 3. KRS 514.050 is amended to read as follows:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is:

(a) A class A misdemeanor if the value of the property is less than five hundred dollars ($500);

(b) A class D felony if the value of the property is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the property is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the property is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the property is $100 or more, in which case it is a Class D felony~~].

Section 4. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in such manner as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of such utility,

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through such meter or other device.

(4) Theft of services is*:*

(a) A class A misdemeanor if the value of the service is less than five hundred dollars ($500);

(b) A class D felony if the value of the service is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the service is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the service is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the service is one hundred dollars ($100) or more, in which case it is a Class D felony~~].

Section 5. KRS 514.070 is amended to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employe of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

1. He fails to account or pay upon lawful demand; or
2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is*:*

(a) A class A misdemeanor if the value of the property is less than five hundred dollars ($500);

(b) A class D felony if the value of the property is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the property is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the property is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the property is $100 or more, in which case it is a Class D felony~~].

Section 6. KRS 514.080 is amended to read as follows:

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense; or

(b) Accuse anyone of a criminal offense; or

(c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(d) Use wrongfully his position as a public officer or servant or employe by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in such manner as to affect some person adversely; or

(e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is*:*

(a) A class A misdemeanor if the value of the property obtained is less than five hundred dollars ($500);

(b) A class D felony if the value of the property obtained is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the property obtained is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the property obtained is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the property obtained is $100 or more, in which case it is a Class D felony~~].

Section 7. KRS 514.090 is amended to read as follows:

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

(3) Theft of labor already rendered is*:*

(a) A class A misdemeanor if the value of the labor rendered is less than five hundred dollars ($500);

(b) A class D felony if the value of the labor rendered is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the labor rendered is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the labor rendered is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the labor rendered is $100 or more, in which case it is a Class D felony~~].

Section 8. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is*:*

(a) A class A misdemeanor if the value of the property is less than five hundred dollars ($500);

(b) A class D felony if the value of the property is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the property is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the property is ten thousand dollars ($10,000) or more [~~a Class A misdemeanor unless the value of the property is $100 or more, in which case it is a Class D felony~~].

Section 9. KRS 514.120 is amended to read as follows:

(1) A person is guilty of obscuring the identity of a machine or other property when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes upon any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) with intent to render it or other property unidentifiable; or

(b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) knowing that the serial number or other identification number or mark including property marked with a social security number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle

operator's license number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Kentucky state police, through any law enforcement agency in the county of his residence, for assignment of a number for the property providing he can show that he is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200 and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200 and 500.090 then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.

(4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is*:*

(a) A class A misdemeanor if the value of the property is less than five hundred dollars ($500);

(b) A class D felony if the value of the property is five hundred dollars ($500) but less than one thousand dollars ($1,000);

(c) A class C felony if the value of the property is one thousand dollars ($1,000) but less than ten thousand dollars ($10,000); and

(d) A class B felony if the value of the property is ten thousand dollars ($10,000) or more [~~one hundred dollars ($100) or more, in which case it is a Class D felony~~].

The Committee Substitute to **HB 415** is as follows:

HB 415, AN ACT relating to theft and related offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 514.030 is amended to read as follows:

(1) A person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is *three* [~~one~~] hundred dollars *$300* [~~($100)~~] or more, in which case it is a Class D felony.

Section 2. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention or other state of mind; or

(b) Prevents another from acquiring information which would affect his judgment of a transaction; or

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship; or

(d) Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment

of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service or the amount of the check or sight order referred to in subsection (5) of this section is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 3. KRS 514.050 is amended to read as follows:

(1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid or delivered by mistake when:

(a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and

(b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.

(2) Theft of property lost, mislaid or delivered by mistake is a Class A misdemeanor unless the value of the property is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 4. KRS 514.060 is amended to read as follows:

(1) A person is guilty of theft of services when:

(a) He intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation; or

(b) Having control over the services of others to which he is not entitled, he intentionally diverts such services to his own benefit or the benefit of another not entitled thereto.

(2) Where compensation for services is ordinarily paid immediately upon the rendering of such services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.

(3) In any prosecution for theft of gas, water, electricity or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:

(a) The meter or other device has been altered, tampered with, or bypassed in such manner as to prevent or reduce the recording thereof; or

(b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of such utility,

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through such meter or other device.

(4) Theft of services is a Class A misdemeanor unless the value of the service is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 5. KRS 514.070 is amended to read as follows:

(1) A person is guilty of theft by failure to make required disposition of property received when:

(a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and

(b) He intentionally deals with the property as his own and fails to make the required payment or disposition.

(2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.

(3) An officer or employe of the government or of a financial institution is presumed:

(a) To know any legal obligation relevant to his criminal liability under this section; and

(b) To have dealt with the property as his own when:

1. He fails to account or pay upon lawful demand; or

2. An audit reveals a shortage or falsification of accounts.

(4) Theft by failure to make required disposition of property received is a Class A misdemeanor unless the value of the property is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 6. KRS 514.080 is amended to read as follows:

(1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense; or

(b) Accuse anyone of a criminal offense; or

(c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(d) Use wrongfully his position as a public officer or servant or employe by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in such manner as to affect some person adversely; or

(e) Bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is a defense to prosecution based on subsection (1)(b), (c) or (d) that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

(3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 7. KRS 514.090 is amended to read as follows:

(1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of subsection (1), an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

(3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 8. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains or disposes of movable property of another knowing that it has been stolen, unless the property is received, retained or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Section 9. KRS 514.120 is amended to read as follows:

(1) A person is guilty of obscuring the identity of a machine or other property when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes upon any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) with intent to render it or other property unidentifiable; or

(b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) knowing that the serial number or other identification number or mark including property marked with a social security number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark including property marked with a social security number or motor vehicle operator's license number for identification purposes has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Kentucky state police, through any law enforcement agency in the county of his residence, for assignment of a number for the property providing he can show that he is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200 and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200 and 500.090 then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.

(4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is *three* [~~one~~] hundred dollars *($300)* [~~($100)~~] or more, in which case it is a Class D felony.

Motions, Petitions, and Communications (continued)

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Kenton moved the adoption of the following **HR 78**:

HR 78, A RESOLUTION adjourning the House of Representatives in honor of the Kentucky Arts Council.

WHEREAS, the Kentucky Arts Council is dedicated to providing the people of the Commonwealth with a full range of artistic entertainment; and

WHEREAS, the council concerns itself with the furtherance of artistic excellence in the Commonwealth; and

WHEREAS, an example of their concern is the artists in education program; and

WHEREAS, students from the artists in education program have displayed their talents to the people of Kentucky through the exhibition of works of art in the lobbies and corridors of the capitol, as well as performing a much enjoyed jazz concert this afternoon in the capitol rotunda;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends the Kentucky Arts Council for their work in providing superior entertainment and fostering cultural excellence in the Commonwealth.

Section 2. That the House of Representatives extends its sincere appreciation to the council for the exhibitions and performances they have sponsored at the capitol.

Section 3. That when the House of Representatives does adjourn this day, Thursday, February 23, 1984, it does so in honor of the Kentucky Arts Council.

HR 78 was adopted by voice vote.

Representative Farrow moved the adoption of the following Legislative Citation No. 61. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends and congratulates the Harrison County High School Thorobreds Wrestling Team, Cynthiana, Kentucky, for your outstanding achievement in capturing the Regional Championship Title. This prestigious body recognizes your excellent coach Rick Dingus, for your leadership in starting the Harrison County Wrestling team fifteen years ago, your dedication and perseverance in compiling a perfect record for this season and the incentive and motivation you give to the entire team. Representative Mark Farrow and all his associates concur in extending best wishes and continued success to the Wrestling Team as you represent your community and the Commonwealth of Kentucky in competitive sports. (Sponsored by Representative Farrow)

Representative Johnson moved that **HB 571** be reassigned to the Committee on Cities. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Hines, **HB 224**; Representative Reinhardt, **HB 341**; Representative Riner, **HB 224**; Representative Stumbo, **HR 73**; Representative Van Horn, **HB 417**.

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **SB 79**, by Representative Stumbo:

Amend printed copy of **SB 79**, page 1, line 17, by adding after "successors." the following: "*Sheriffs now in office shall not be eligible for re-election in 1985, but sheriffs elected in 1985 and thereafter shall be eligible for re-election.*".

Floor Title Amendment No. 2 to **SB 92**, by Representative Overstreet:

Amend printed copy of Title of **SB 92**, by deleting the title and inserting in lieu thereof "AN ACT relating to inheritance tax."

Floor Amendment No. 2 to **SB 92**, by Representative Overstreet:

Amend printed copy of **SB 92**, on page 1, by deleting Section 1 in its entirety and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:

When any person dies testate as to his personal estate, the surplus, after payment of funeral expenses, charges of administration and debts, shall be distributed as recited in his will, except that personal property or money on hand or in a bank to the amount of seven thousand five hundred dollars ($7,500) shall be exempt from the provisions of KRS Chapter 140."

Floor Amendment No. 3 to **HB 258**, by Representative Mann:

Amend printed copy of **HB 258**, on page 1, line 11, after the word "*impairment*" by inserting the following: "*, or occupational disability, when subsection (c) of this section does not apply*"

On page 1, line 13, after the word "wage" by inserting the following ","

On page 1, line 15, after the second word "by" by adding the following: "*the greater of either: 1. the*"

On page 1, line 15, by bracketing and striking through the word "his"

On page 1, line 19, by inserting the following after the word "Association" "*; or, 2. the percentage of occupational disability as determined under KRS 342.620(11),* and by bracketing and striking through the following: ", 1977 edition,"

On page 1, line 21, by deleting the following ";"

On page 1, beginning on line 21, and ending on page 2, line 2, by bracketing and striking through the following "or by his percentage of disability as determined under KRS 342.620(11), whichever is greater"

On page 2, line 13, after the word "*for*" by inserting "*significant*"

On page 2, line 25, by deleting "*paragraph*" and by inserting in lieu thereof "*subsection*"

Floor Amendment No. 1 to **HB 598**, by Representative P. Richardson:

Amend printed copy of **HB 598**, on page 4, line 23 and 24, by deleting the words "*commercial paper bonds, variable rates bonds,*" on said lines

And on page 5, line 1, after "*103.285*", by inserting the following: "*and for pollution control facilities shall also include commercial paper bonds and variable rate bonds*".

Floor Amendment No. 2 to **HB 598**, by Representative P. Richardson:

Amend printed copy of Committee Amendment No. 1 to **HB 598**, on page 1, line 1 through 3, by deleting said lines entirely.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, February 24, 1984.

On the roll call the vote was yeas 75-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gray, Hancock, Harper, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates.. Nays 0.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 24, 1984

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Waymond Rogers, Evangel Tabernacle, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Perkins.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 23, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 194, SB 229, HB 35** with Senate Amendment, **HB 229** with Senate Amendment, **HB 23, HB 24, HB 37, HB 369, HB 433,** and **HJR 4.**

Introduction of Bills and Resolutions

HB 750, by Representative Thomas, Rapier, Allen, Cline, Brown, Turner, Burnette, F. Smith, Layman, Fryman, Pearman, Gedling, Overstreet, and Deskins: AN ACT relating to funding of local roads.

HB 751, by Representatives Farrow and Arnold: AN ACT relating to fiscal courts.

HB 752, by Representative Hancock: AN ACT relating to jails and jailers.

HB 753, by Representatives Guenthner, Yates, Caldwell, Kidd, Cyrus, Holloway, O'Brien, Perkins, P. Clark, Moberly, Overstreet, Seum, Heleringer, Head, Meyer, Reinhardt, Johnson, Bennett, Gray, Dunn, Mann, Fryman, Deskins, Moore, White, Priddy, Van Horn, Williams, Burch, Hines, Handy, Bendl, Bronger, L. Clark, Lile, and Endicott: AN ACT relating to disability plans for employes of cities and counties.

HR 79, by Representative Meyer: A RESOLUTION declaring June 23, 1984, as Ludlow Day.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 741, HB 748, SCR 10.**

Business Organizations and Professions: **HB 738.**

Cities: **HB 742.**

Education: **HB 746, SCR 30.**

Health and Welfare: **HB 737, HB 747.**

Judiciary-Criminal: **HB 736.**

Labor and Industry: **HB 735, HB 740.**

Natural Resources and Environment: **HB 745.**

State Government: **HB 734, HB 743, HB 744, HB 749, SB 157, SB 162, SB 182, SB 187, SB 188.**

Transportation: **HB 739.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 546, HB 616, HB 620.**

State Government: **HB 718, HB 670, HB 346, HB 640, HB 323, HB 372, HB 86, SB 135, SB 183, HB 525, HB 628, HB 457, HB 632.**

The Committee on Judiciary-Civil reported **HB 571** has been withdrawn from Committee consideration.

Report of Committees

The Committee on Rules reported **HB 583, HB 596, HB 634, HJR 20, HR 53, SB 120, HB 157, HB 461, HB 524,** and **HB 298** have been posted for passage in Orders of the Day, February 27, 1984.

The Committee on Rules reported the following Bills have been recommitted:

To the Committee on Appropriations and Revenue: **HB 285, HB 449, HB 511, HB 580, HB 629, HB 453.**

To the Committee on State Government: **HB 455.**

The Committee on Business Organizations and Professions reported **HB 165,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 165, AN ACT relating to the equine industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created under the general jurisdiction of the public protection and regulation cabinet, an agency of state government to be known as the Kentucky racing authority, hereafter referred to as the "authority." The authority shall consist of eighteen (18) members; the combined memberships of the Kentucky thoroughbred racing commission provided for in KRS 230.220 and the Kentucky harness racing commission provided for in KRS 230.620. Members shall serve on the authority concurrent and consistent with their terms of appointment to the respective commissions and they shall be entitled to the same financial remuneration and reimbursement as they receive as members of the respective commissions. The chairmen of the respective commissions shall serve as co-chairmen of the authority.

(2) The authority shall meet at least quarterly and may meet at other times by call of the co-chairmen or by call of a majority of the membership of the authority. A majority of the membership shall be considered a quorum for the transaction of official business.

(3) The purpose of the authority shall be to regulate areas of common interest and concern to the thoroughbred and harness racing industries in order to create an integrated state policy which shall be in the best interests of both industries and the Commonwealth of Kentucky. Other provisions of the Kentucky Revised Statutes notwithstanding, specific functions of the authority shall include:

(a) Issuance of licenses to thoroughbred and harness associations to conduct race meetings and the

granting of racing dates to conduct such meets.

(b) Regulation of the use of drugs and drug testing in thoroughbred and harness racing and administration of equine drug research, consistent with KRS 230.265.

(c) Employment of staff and the provision of necessary administrative services for the authority as well as for the respective commissions.

(d) Other matters which the authority may determine by majority vote to be of such mutual interest and concern to the thoroughbred and harness industries as to warrant an integrated state policy.

(4) The authority may promulgate necessary and reasonable rules and regulations to effectively carry out the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The governor shall appoint an executive director for the authority to serve for a term not to exceed four (4) years and who may be removed only for just cause. The executive director shall serve as chief administrative officer for the authority and for the thoroughbred and harness racing commissions, and in such capacity shall perform directed administrative duties which are necessary for the authority and the respective commissions to effectively carry out their statutory mandates. The governor shall also appoint for terms not to exceed four (4) years, an assistant director to serve as administrative officer for the thoroughbred racing commission and an assistant director to serve as administrative officer of the harness racing commission. Both assistant directors shall act under the general supervision of the executive director and may be removed only for just cause. In addition, the authority may employ such other administrative and clerical personnel as necessary, but consistent with budgetary limitations. Any employe referred to in this section shall be reimbursed for expenses paid or incurred in the discharge of official business approved by the authority or a respective commission.

(2) The authority shall establish and maintain a general office for the transaction of its business and may establish any branch offices it may deem necessary. The authority or the respective racing commissions may meet at any such office or at any other location they may deem convenient. All such meetings shall be open to the public and notification of such meeting shall be consistent with provisions of the Kentucky open meetings law.

(3) The executive director shall maintain a record of all meetings and these records, along with other records of the authority and the respective commissions shall be maintained at the general office and shall be subject to public inspection during regular working hours and consistent with the Kentucky open records law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Any person desiring to conduct thoroughbred racing, appaloosa racing at a thoroughbred race meeting or harness racing within the Commonwealth of Kentucky during any calendar year shall first apply to the Kentucky racing authority for a license to do so. The application shall be filed at the authority's general office on or before a day fixed by the authority. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the authority may, by rule require.

(2) The authority shall as soon as practicable, but in no event later than November 30 of each odd numbered year, award dates for racing in the Commonwealth during the following two (2) fiscal years. Racing dates awarded by the authority shall be submitted to the Kentucky general assembly for approval at its next regular session. The general assembly may approve the dates as submitted or with amendments. If no action is taken by the general assembly, the dates shall become effective as submitted, upon sine die adjournment. The authority shall not award overlapping or concurrent racing dates for the same breed of horse unless such dates are agreed to by the associations affected. Racing dates awarded for calendar year 1984 and any succeeding year not in compliance with this section, shall be null and void and dates equivalent to those awarded for 1982 shall be substituted in lieu thereof. Any variance shall occur only if agreed to by any affected associations and approved by the authority. In the event scheduled racing is canceled by reason of flood, fire, inclement weather, or other emergencies, the authority may award additional racing dates to make up for those dates canceled by such flood, fire, inclement weather, or other emergencies. The authority may issue such license to conduct a race meeting to any association making the aforesaid application, if the authority finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the authority, the licensing of such association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the authority may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the

payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under this section shall specify among other things the name of the person to whom issued, the address and location of the track where the race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire or other catastrophe, the authority may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) Racing dates may be awarded and licenses issued authorizing racing on any day of the year. Racing shall be held or conducted only between sunrise and midnight.

(6) The authority may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with racing or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this authority or the respective racing commissions.

(7) No person shall hold or conduct any race meeting for any stake, purse or reward within the Commonwealth of Kentucky without securing the required license from the Kentucky racing authority. Any such race meeting is hereby declared to be a public nuisance and the authority may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

(8) The authority shall have authority to compel any racing association licensed under this section to file with the authority at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

SECTION 4. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the sale of any thoroughbred horse at any public auction or sale conducted in this state, the prospective buyer shall have access to the results of an analysis of the blood and urine sample of the horse upon request, as well as a statement by a person licensed as a veterinarian in this state that states his diagnosis of the condition and soundness of the horse and that he has examined the horse within no more than forty-eight (48) hours prior to the time the horse is offered for sale.

(2) The seller or owner of a thoroughbred horse offered for sale at any public auction or sale conducted in this state, and any licensed veterinarian attending the horse shall post on the site of the auction or sale in a conspicuous place a report of any medication or treatment the horse has received in the thirty (30) days prior to the date the horse is offered for sale.

(3) Any costs incurred for compliance with subsections (1) and (2) of this section shall be paid from the commissions of the sales company.

Section 5. KRS 137.170 is amended to read as follows:

(1) Every person engaged in the business of conducting a race track at which races are run for stakes, purses or prizes, under the jurisdiction of the *thoroughbred* [~~state~~] racing commission, shall pay a license tax to the state, as provided in subsection (2) of this section.

(2) Any such race track at which the average daily mutuel handle for any year commencing December 1 and ending the following November 30 exceeds the sum of *$900,000* [~~$600,000~~] per day for the days upon which races are actually conducted for any stake, purse or prize, shall pay a license tax of twenty-five hundred dollars ($2,500) per day for each such day. Any such track at which the average daily mutuel handle for any year commencing December 1 and ending the following November 30 exceeds $450,000 per day for each day upon which races are actually conducted for any stake, purse or prize, but does not amount to *$900,000* [~~$600,000~~], shall pay a license tax of one thousand dollars ($1,000) per day for each such day. Any such track at which the average daily mutuel handle for any year commencing December 1 and ending the following November 30 does not amount to $450,000 per day for the days upon which races are actually conducted for any stake, purse or prize, shall pay a license tax of five hundred dollars ($500) per day.

(3) As used in the preceding subsection the term "daily mutuel handle" shall be understood to mean the total gross amount of money bet or wagered by its patrons by means of pari-mutuel, combination or French pools.

Section 6. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to *five and three-fourths* [~~four and three-fourths~~] percent *(5 3/4%)* [~~(4 3/4%)~~] of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. [~~From July 15, 1982, until June 30, 1985,~~] Tracks with a daily average handle of less than $900,000 shall receive a tax credit amounting to *four* [~~three~~] percent *(4%)* [~~(3%)~~] of money wagered, to be allocated by contractual agreement between the qualified tracks and the *Kentucky division of the* horsemen's benevolent and protective association. Three-nineteenths (3/19) of all amounts received by reason of such tax shall be set

aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400.

(2) An excise tax is imposed on every person, corporation or association which operates a standardbred horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. One-fifth (1/5) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770. *Associations* [~~From July 15, 1982, until June 30, 1985, tracks~~] with a daily average of less than three hundred thousand dollars ($300,000) shall receive a tax credit of two percent (2%) of all money wagered[~~, to be allocated to the tracks for capital improvements. Said capital improvements shall be approved by the harness racing commission~~].

Section 7. KRS 138.515 is amended to read as follows:

(1) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, shall not be less than fifteen percent (15%) nor more than *seventeen and one-half* [~~sixteen~~] percent *(17 1/2%)* [~~(16%)~~] at the discretion of those tracks averaging over nine hundred thousand dollars ($900,000) in pari-mutuel handle per racing day. The commission at those tracks averaging nine hundred thousand dollars ($900,000) or less in pari-mutuel handle per racing day, at the discretion of such track, shall not be less than sixteen and one half percent (16 1/2%) nor more than seventeen and one half percent (17 1/2%) in races where the patron is required to select one (1) horse, except that for the purposes of races conducted under the auspices of the quarter horse and appaloosa commission shall not exceed seventeen percent (17%) of the gross amount handled, and the breaks, which breaks shall be made and calculated to the dime.

(2) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system shall not exceed nineteen percent (19%) of the gross handle in races where the patron is required to select two (2) horses, and the breaks, which breaks shall be made and calculated to the dime.

(3) The racing association averaging nine hundred thousand dollars ($900,000) or less per racing day shall pay to the backside improvement fund an amount equal to one-half of the one percent (1/2 of 1%) of *the pari-mutuel handle out of* its commissions *after all contractual obligations to horsemen have been deducted.*

Section 8. KRS 138.530 is amended to read as follows:

(1) The department of revenue shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 shall be made to the department of revenue the next business day following each day of racing, during each race meeting and accompanied by such reports as prescribed by said department. All such funds received by the department of revenue shall be paid into the state treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky *thoroughbred* [~~state~~] racing commission shall daily, during each race meeting, report to the department of revenue the total amount bet or handled the preceding day and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky *thoroughbred* [~~state~~] racing commission or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 9. KRS 139.531 is amended to read as follows:

Notwithstanding all other provisions of this chapter, the taxes imposed by this chapter shall apply to the horse industry as follows:

(1) The taxes imposed under the provisions of this chapter shall apply to the following transactions:

(a) Fees paid *or the equivalent of fees paid by trading* for breeding a stallion to a mare in this state;

(b) Sales of *all* horses *within the Commonwealth* [~~unless exempted under the provisions of subsections (2)(a) or (2)(c) of this section~~];

(c) Claiming price of any horse claimed at any race meeting within this state.

(2) Any person who purchases a horse within the Commonwealth and who is a non-resident, shall be eligible for a rebate of the tax paid in subsection (1)(b) of this section upon application to the department of revenue, providing proof of non-residency, providing proof of purchase and providing proof that the horse purchased is removed from the state within a reasonable period of time, as established by the department of revenue.

(3) Kentucky residents shall be eligible for a tax rebate on the tax paid in paragraph (1)(b) of this section upon application to the department of revenue providing an affidavit stating the purchaser is a resident of the Commonwealth and that the purchased horse is for breeding purposes only. [~~The taxes imposed under the provisions of this chapter shall not apply to the sale or use of:~~

~~(a) Horses, or interests or shares in horses, provided the purchase or use is made for breeding purposes only;~~

~~(b) Stallion services, including the trading but not the sale thereof, providing the use or trading is made by the owner of the stallion or the owner of an interest or share in the stallion;~~

~~(c) Horses less than two years of age at the time of sale, provided the sale is made to a nonresident of Kentucky, and the horse is transported out of the state, either immediately following the sale or immediately following training within the state if the horse is kept temporarily within the state for training purposes following the sale.~~]

(4)[~~(3)~~] The taxes imposed by this chapter shall not apply to receipts for boarding and training of horses within this state, [~~nor to the temporary use of horses within this state~~] for purposes of racing, exhibiting, or performing.

(5) All revenues generated under this section shall be used exclusively in the funding of elementary and secondary education.

Section 10. KRS 138.550 is amended to read as follows:

In addition to all other penalties provided in KRS 138.510 to 138.540, when the pari-mutuel system of betting is operated at a track licensed under the provisions of KRS 137.170, said license may be suspended, revoked or renewal refused by the *Kentucky* [~~state~~] racing *authority* [~~commission~~] upon the failure of the operator to comply with the provisions of KRS 138.510 to 138.540 or the rules and regulations promulgated by the department of revenue pursuant thereto even though the pari-mutuel system of betting and the track are operated by different persons, corporations or associations.

Section 11. KRS 230.210 is amended to read as follows:

As used in KRS 230.210 to 230.360 unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky *thoroughbred* [~~state~~] racing commission under *Section 3 of this Act* [~~KRS 230.300~~] and engaged in the conduct of a recognized thoroughbred race meeting;

(2) "Commission" means the Kentucky *thoroughbred* [~~state~~] racing commission;

(3) "Commissioner" means a member of the Kentucky *thoroughbred* [~~state~~] racing commission;

(4) [~~"Secretary" means the secretary of the Kentucky state racing commission;~~

~~(5)~~] "Thoroughbred race or thoroughbred racing" shall include that form of horse racing in which each horse participating in such race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey.

(5)[~~(6)~~] "appaloosa race or appaloosa racing" means that form of horse racing in which each horse participating in such a race is registered with the appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey.

(6)[~~(7)~~] "Thoroughbred race meeting" means horse racing run on the flat at an association licensed *by the Kentucky racing authority* and regulated by the *thoroughbred* [~~state~~] racing commission, and may include both thoroughbred racing and appaloosa racing.

Section 12. KRS 230.215 is amended to read as follows:

(1) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the thoroughbred horse breeding industry within the Commonwealth and to encourage the improvement of the breed of thoroughbred horses. Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate thoroughbred racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all thoroughbred racing not licensed under KRS 230.210 to 230.360 and appaloosa racing not licensed under KRS 230.210 to 230.360 or 230.410 to 230.447 is a public nuisance and may be enjoined as such. Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of thoroughbred racing or appaloosa racing at a thoroughbred race meeting, or the participation in any way in thoroughbred racing or appaloosa racing at thoroughbred race meetings, or the entrance to or presence where thoroughbred racing and appaloosa racing is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the commission or its duly approved representatives acting in its behalf.

(2) It is hereby declared the purpose and intent of KRS 230.210 to 230.360 in the interest of the public health, safety, and welfare, to vest in the commission *authority to regulate* [~~forceful control of~~] thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth with [~~plenary~~] power to prescribe *necessary and reasonable* rules, [~~and~~] regulations and conditions under which all legitimate thoroughbred racing and appaloosa racing at thoroughbred race meetings and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breed of thoroughbreds in the Commonwealth, to regulate and maintain thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled thoroughbred racing or appaloosa racing practices, and to regulate and maintain thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of thoroughbred racing and appaloosa racing in the Commonwealth. In addition to the general powers and duties vested in the commission by KRS 230.210 to 230.360, it is the intent hereby to vest in the commission the power to eject or exclude from association grounds or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing.

Section 13. KRS 230.218 is amended to read as follows:

(1) There is hereby established, under the general jurisdiction of the Kentucky *thoroughbred* [~~state~~] racing commission, a backside improvement commission. This commission shall consist of four (4) members[~~, three (3) of which shall be voting members and one (1) shall be a nonvoting member. The voting members shall be~~] as follows: one (1) member appointed by the president pro tempore of the Kentucky senate, one (1) member appointed by the speaker of the Kentucky house of representatives, [~~and~~] one (1) member appointed by the chairman of the Kentucky *thoroughbred* [~~state~~] racing commission*, and one*[~~. The nonvoting~~] member [~~shall be~~] appointed by the Kentucky division of the horsemen's benevolent and protective association. The appointee of the chairman of the Kentucky *thoroughbred* [~~state~~] racing commission shall serve as chairman of the backside improvement commission. The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business.

(2) There is hereby created a trust and revolving fund for the backside improvement commission, consisting of money allocated to the fund under the provisions of KRS 138.515, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the backside improvement fund at the end of each fiscal year shall not lapse but shall be carried forward in such fund to the succeeding fiscal year. The backside improvement commission shall have the authority and may invest any and all funds received by the trust fund and interest earned by the investment of said funds in types of investments appropriate to the investment needs of the trust fund after having considered the financial return on authorized investment alternatives, the financial safety of investment alternatives and the impact of any authorized investments on the state's economy. The backside improvement commission shall review the status of the trust fund investments quarterly and report its findings to the finance and administration cabinet, the Kentucky *thoroughbred* [~~state~~] racing commission and the legislative research commission.

(3) The backside improvement commission shall employ such qualified personnel as may be required to assist the commission in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the backside improvement fund.

(4) The purpose of the fund shall be to improve the backside of racing associations averaging nine hundred thousand dollars ($900,000) or less pari-mutuel handle per racing day. The backside improvement commission shall use the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations. Said conditions shall include but not be limited to the living and working quarters of backside employes.

(5) The Kentucky *thoroughbred* [~~state~~] racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section.

Section 14. KRS 230.220 is amended to read as follows:

(1) There is hereby created the Kentucky *thoroughbred* [~~state~~] racing commission which shall *operate as a division of the Kentucky racing authority* [~~be an independent agency of state government~~]. The commission shall consist of nine (9) members seven (7) of whom shall be appointed by the governor. One (1) member shall be appointed by the president pro tempore of the senate and one (1) member shall be appointed by the speaker of the house of representatives. *Of the seven (7) members appointed by the governor no more than three (3) shall be from the same congressional district.* In making appointments, the governor shall secure broad representation within the thoroughbred industry, to include appointment of no fewer than two (2) breeders, no fewer than two (2) horsemen[~~, and the geographic areas in which licensed racing associations are located shall be considered~~]. Recommendations for said appointments shall be sought from various

industry groups, to include the Kentucky thoroughbred owners and breeders, inc., the Kentucky division of the horsemen's benevolent and protective association, and other interested organizations. At least one (1) of the members appointed by the governor shall have no financial interest in the business or industry regulated. [~~The seven (7) members appointed by the governor shall serve a term beginning July 1, 1982 and ending January 1, 1984, or shall serve until their successors are appointed and duly qualified. Thereafter,~~] The seven (7) members appointed by the governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. The members appointed by the president pro tem of the senate and the speaker of the house shall serve a term of four (4) years [~~beginning July 1, 1982,~~] and shall serve until their successors are appointed and duly qualified. Any vacancy on the commission shall be filled pursuant to the requirements and procedures for original appointments. Commissioners shall receive fifty dollars ($50) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The commission shall designate one (1) of their number as chairman and another as vice chairman. Before entering upon the discharge of their duties, each commissioner shall take the constitutional oath of office.

(2) [~~The commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices.~~] The commission may hold meetings at any [~~of such~~] offices *maintained by the Kentucky racing authority* or at any other place when the convenience of the commission requires. All meetings of the commission shall be open and public, and all persons shall be permitted to attend any meetings. A majority of the commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

Section 15. KRS 230.240 is amended to read as follows:

(1) [~~In addition to the employes referred to in KRS 230.230,~~] The commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by rule the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate rules and regulations for effectively preventing the use of improper devices[~~, the administration of drugs or stimulants~~] or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate[~~, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.210 to 230.360 in such manner and in such proportions as the commission may by rule provide~~].

(3) The compensation of the employes referred to in this section shall be paid by the licensee conducting the thoroughbred race meeting in connection with which said employes are utilized or employed. The salary of the *director of* [~~secretary to~~] the commission shall be prorated among and paid by the various associations licensed under *Section 3 of this Act* [~~KRS 230.210 to 230.360~~] in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(4) Each person, as a condition precedent to the privilege of receiving a license under *Section 3 of this Act* [~~KRS 230.210 to 230.360~~] to conduct a thoroughbred race meeting, shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 16. KRS 230.260 is amended to read as follows:

The commission, in the interest of *racing* [~~breeding or the improvement of the breed of thoroughbred horses~~], shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or appaloosa racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing at thoroughbred race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to

the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.3611 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable rules, regulations and conditions under which thoroughbred horse racing and appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting, except that the commission shall not prefer by regulation or otherwise any licensees in their contractual relations with one another;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission;

(5) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the legislative research commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the legislative research commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(6) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(7) The commission shall compel a licensed racing association to publish and file with the commission within thirty (30) days after any thoroughbred race meeting conducted by it, the criteria it will use in allocating or denying stalls to applicants at its next race meeting. Said criteria shall state specifically the type of application it will prefer as well as the type of application it will reject.

(8) The allocation of stalls and the acceptance or rejection of entries or subscriptions for thoroughbred racing by licensed racing associations shall not require as a condition of stabling or entering in a thoroughbred race the waiver or conveyance of any property or performance rights by any applicant.

(9) No licensed racing association shall prefer any licensee over another unless expressly provided for by chapter 810 of the Kentucky administrative regulations or by chapter 230 of the Kentucky revised statutes [~~The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association~~].

Section 17. KRS 230.265 is amended to read as follows:

(1) The Kentucky racing authority shall promulgate rules and regulations for effectively preventing the administration of drugs or stimulants for the purpose of affecting the speed or health of horses in races in which they are to participate. Any regulation promulgated under this section shall be necessary and reasonable and based on recommendations of the Kentucky equine drug research council as supported by valid scientific research. In connection therewith the authority is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies used in connection therewith, shall be paid by the various associations licensed under Section 3 of this Act in such manner and in such proportions as the authority may by rule provide.

(2) There is hereby created a panel, to be known as the Kentucky equine drug research council, to advise the *authority* [~~commission~~] on the conduct of equine drug research and testing commissioned by the *authority* [~~state racing commission~~]. The council shall consist of *eight (8)* [~~seven (7)~~] members: a veterinarian appointed by the Kentucky association of equine veterinarians, a horseman appointed by the Kentucky division of the horsemen's benevolent and protective association, a pharmacologist appointed by the University of Kentucky, a thoroughbred breeder appointed by the Kentucky thoroughbred owners and breeders, inc., a legislator appointed by the legislative research commission, a representative of a licensed racing association, [~~and~~] a member of the *thoroughbred* [~~state~~] racing commission, appointed by the chairman of the [~~state racing~~] commission, *and a representative of the harness racing commission, appointed by the chairman. A chairman shall be designated by the co-chairmen of the authority* [~~to serve as chairman~~]. The council shall meet at the call of the chairman, a majority of the council or at the request of the *authority* [~~commission~~]. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(3)[~~(2)~~] The Kentucky equine drug research council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the *authority* [~~commission~~] on drug research and testing research being conducted elsewhere. The council shall advise the *authority* [~~commission~~] and make *all* recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to *each* [~~the 1984~~] general assembly any needed changes regarding the regulation of drugs in thoroughbred *and harness* racing in the

Commonwealth of Kentucky.

(4)[~~(3)~~] The *authority* [~~commission~~] shall receive one-tenth of one percent (.1%) of the total amount wagered in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing drug research and testing research in Kentucky, *pursuant to recommendations by the council,* which shall be in addition to any funds appropriated [~~to the commission~~] for such purposes in the executive budget.

Section 18. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under *Section 3 of this Act* [~~KRS 230.300~~] who desires to participate in thoroughbred racing or appaloosa racing at a thoroughbred race meeting in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employe, racing official, association employe, or employe of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in such activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. Such license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all thoroughbred race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under this chapter. meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under this chapter.

Section 19. KRS 230.330 is amended to read as follows:

Any licensee or any applicant aggrieved by any order of the commission *or authority* may appeal to the Franklin Circuit Court *or the circuit court in the county where the controversy, cause of action or some part thereof arose,* within the time and in the manner provided by KRS 243.560 to 243.590.

Section 20. KRS 230.350 is amended to read as follows:

Any person licensed by *the Kentucky racing authority* [~~this commission~~] under *Section 3 of this Act* [~~KRS 230.300~~] may be issued a license by the alcoholic beverage control board and may hold a distilled spirits and wine special temporary license and malt beverage special temporary license as provided in KRS 243.260 and 243.290. The licenses and each of them when issued shall be valid and effective only upon premises licensed by *the authority* [~~this commission~~] and upon the dates and hours for which racing has been authorized by *the authority* [~~this commission~~].

Section 21. KRS 230.360 is amended to read as follows:

(1) KRS 230.210 to 230.360 are not applicable to trotting or pacing meets or races conducted in this state nor to appaloosa racing and quarter horse racing licensed under KRS 230.410 to 230.447.

(2) The provisions of KRS 230.210 to 230.360 are intended to be statewide and exclusive in their effect and no city, county or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances or regulations on the subject of thoroughbred race meetings. Any person licensed under *Section 3 of this Act* [~~KRS 230.300~~] shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, license taxes imposed under KRS 137.170 to 137.190, and KRS 137.990 together with admission taxes imposed by KRS 138.480 to 138.490, and the pari-mutuel taxes imposed by KRS 138.510 to 138.550, and all state, as well as local, ad valorem taxes; Provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and trotting horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

Section 22. KRS 230.361 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and appaloosa races at a thoroughbred race meeting under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) Other provisions of the Kentucky Revised Statutes notwithstanding, the commission shall permit a licensed association to conduct pari-mutuel wagering on racing conducted at another licensed association in the Commonwealth. Such wagering shall form a common pool with wagering conducted by the association conducting the racing. The commission shall also permit licensed associations to conduct pari-mutuel wagering on special event races conducted in other states or foreign countries, which are determined to be of sufficient national or international significance or interest to warrant interstate wagering. *In addition, any association with a daily average pari-mutuel handle of less than nine hundred thousand dollars ($900,000) and*

a yearly average total handle of less than fifty million dollars ($50,000,000) shall be permitted to operate or lease one (1) off-track wagering facility provided the facility is located in the same congressional district as the association or within fifty (50) miles of association facilities. All such wagering shall form a common pool and shall be conducted in accordance with applicable federal law. *Wagering conducted under this subsection shall be referred to as "multi-track wagering" and shall be subject to necessary and reasonable regulation by the commission.*

(3) *No multi-track wagering shall be permitted unless the track conducting the wagering has a written agreement with the Kentucky division of the horsemen's benevolent and protective association, giving consent to the use of multi-track wagering.*

(4) The take-out for pari-mutuel wagering conducted under subsection (2) of this section shall be an amount equal to that withheld under the provisions of KRS 138.515. Gross revenues retained from such wagering, after payment of the pari-mutuel tax only, shall be applied to purses *at the track conducting the wagering* in the same percent ratio as gross revenues from on-track pari-mutuel wagering, after payment of the pari-mutuel tax only, are applied to purses. Remaining revenues shall be apportioned by contractual agreement between the association conducting the racing and the association conducting the wagering under subsection (2). The pari-mutuel tax credit permitted in KRS 138.510 shall not apply to pari-mutuel wagering conducted under subsection (2) of this section.

(5)[~~(4)~~] In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(6)[~~(5)~~] All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

Section 23. KRS 230.400 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky *thoroughbred* [~~state~~] racing commission, designated as the Kentucky thoroughbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the Kentucky thoroughbred development fund shall be distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky *thoroughbred* [~~state~~] racing commission and upon approval of the secretary of the finance and administration cabinet. Money from the Kentucky thoroughbred development fund shall be allocated to each licensed association in an amount equal to the amount the association contributed to the fund. Money to the credit of the Kentucky thoroughbred development fund at the end of each fiscal year shall not lapse, but shall be carried forward in such fund to the succeeding fiscal year.

(2) There is hereby established, under the general jurisdiction of the Kentucky *thoroughbred* [~~state~~] racing commission, a Kentucky thoroughbred development fund advisory committee. The advisory committee shall consist of five (5) members, all of whom shall be residents of Kentucky, to be appointed by the chairman of the Kentucky *thoroughbred* [~~state~~] racing commission by July 1 of each year. The committee shall consist of *one (1)* [~~two (2)~~] thoroughbred breeders recommended by the Kentucky thoroughbred owners and breeders, inc.; one (1) thoroughbred owner recommended by the Kentucky division of the horsemen's benevolent and protective association; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky *averaging nine hundred thousand dollars ($900,000) or less per racing day in pari-mutuel handle; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky averaging over nine hundred thousand dollars ($900,000) per racing day in pari-mutuel handle* [~~, recommended by action of all of the licensed associations conducting thoroughbred racing in Kentucky~~]; and one (1) member of the Kentucky *thoroughbred* [~~state~~] racing commission. If any member other than the commission member has not been recommended for appointment by July 1 of each year, the chairman of the Kentucky *thoroughbred* [~~state~~] racing commission shall make an appointment for the organization or organizations failing to so recommend a member of the committee. The members of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business. The advisory committee shall select from its membership annually a chairman and a vice chairman.

(3) (a) The Kentucky thoroughbred development fund committee shall advise and assist the Kentucky *thoroughbred* [~~state~~] racing commission in the development of the supplemental purse program provided herein for Kentucky bred thoroughbreds, shall make recommendations to the commission from time to time with respect to the establishment of guidelines, rules and regulations for the provision of such supplemental purses, the amount thereof, the races for which such purses are to be provided and the conditions thereof, manner and method of payment of such supplemental purses, registry of thoroughbred stallions standing within the Commonwealth of Kentucky, registry of Kentucky bred thoroughbreds for purposes of this section, nature and type of forms and reports to be employed and required in connection with the establishment, provision for, award and payment of such supplemental purses and with respect to all other matters necessary in connection with the carrying out of the intent and purposes of this section.

(b) The Kentucky *thoroughbred* [~~state~~] racing commission shall employ such qualified personnel as may be required to assist the commission and the advisory committee in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the Kentucky thoroughbred development fund.

(4) The Kentucky *thoroughbred* [~~state~~] racing commission, with the advice and assistance of the Kentucky thoroughbred development fund advisory committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses for [~~designated stakes, handicap,~~] allowance and non-claiming maiden races contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in such races by Kentucky bred thoroughbred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning and placing horses in the same proportion as the stake or purse provided for such race by the racing association. Winning or placing as used in this section shall include those horses finishing first, second, third and fourth in such races. That portion of the supplemental purse provided for any [~~such designated~~] race for a winning or placing finish shall be awarded and paid *at the end of each race meet* to the owner *in the form of a bonus* of the horse so finishing *and* only if such horse is a Kentucky bred thoroughbred duly registered as such with the official registrar. Any portion of the supplemental purse which is not awarded and paid over shall be returned to the Kentucky thoroughbred development fund.

(5) (a) For purposes of this section, the term Kentucky thoroughbred stallion shall mean and include only a thoroughbred stallion standing the entire breeding season in Kentucky and registered as a Kentucky thoroughbred stallion with the official registrar of the Kentucky thoroughbred development fund.

(b) Except for thoroughbred horses foaled prior to January 1, 1980, the term Kentucky bred thoroughbreds for purposes of this section, shall mean and include only thoroughbred horses sired by Kentucky thoroughbred stallions foaled in Kentucky and registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a Kentucky bred thoroughbred for purposes of this section if such horse was foaled in Kentucky and if the sire of such thoroughbred was standing at stud within Kentucky at the time of conception of such thoroughbred, provided such thoroughbred is duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(d) In order for an owner of a Kentucky sired thoroughbred to be eligible to demand, claim and receive a portion of a supplemental purse provided by the Kentucky thoroughbred development fund, the thoroughbred horse winning or placing in a designated race for which a supplemental purse has been provided by the Kentucky thoroughbred development fund must have been duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund prior to entry in such race.

(6) (a) *The* Kentucky *thoroughbred racing commission* [~~Thoroughbred Owners and Breeders, Inc.,~~] is hereby recognized and designated as the sole official registrar of the Kentucky thoroughbred development fund for the purposes of registering Kentucky thoroughbred stallions and Kentucky bred thoroughbreds in accord with the terms of this section and such rules and regulations as may be promulgated by the [~~Kentucky state racing~~] commission. When a Kentucky bred thoroughbred is registered with the official registrar, the registrar shall be authorized to stamp the Jockey Club certificate issued for such thoroughbred with the seal of the registrar, certifying that the said thoroughbred is a duly qualified and registered Kentucky bred thoroughbred for purposes of this section. The *commission* [~~registrar~~] may establish and charge[~~, with the approval of the commission,~~] reasonable registration fees, *not to exceed twenty-five dollars ($25),* for its services in the registration of Kentucky thoroughbred stallions and in the registration of Kentucky bred thoroughbreds. Registration records of the *commission* [~~registrar~~] shall be public records and open to public inspection at all normal business hours and times.

(b) Any interested party aggrieved by the failure or refusal of the official registrar to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky bred thoroughbred shall have the right to file with the commission, within thirty (30) days of such failure or refusal of the *commission* [~~registrar~~], petition seeking registration of such thoroughbred. The commission shall promptly hear the matter de novo and issue its order [~~directing the official registrar~~] to register or not to register [~~as it may be determined by the commission~~].

(7) The Kentucky *thoroughbred* [~~state~~] racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including the adoption of such rules and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky bred thoroughbreds with the official registrar, and shall administer the Kentucky bred thoroughbred program created hereby in a manner best designed to promote and aid in the further development of the thoroughbred

breeding industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky and to improve the quality of thoroughbred horses bred in Kentucky.

Section 24. KRS 230.610 is amended to read as follows:

(1) As used in KRS 230.610 to 230.760 unless the context requires otherwise:

(a) "Association" includes incorporated as well as unincorporated associations.

(b) "Commission" means "Kentucky harness racing commission."

(c) "Standardbred horse races" shall mean and include both trotting and pacing races.

(d) "Commissioner" means a member of the Kentucky Harness Racing Commission.

[~~(e) "Secretary" means the Secretary of the Kentucky harness racing commission.~~]

(2) The provisions of KRS 230.610 to 230.760 do not apply to standardbred horse races conducted by any state, county or other fair association, holding not more than one (1) meeting annually, which meeting does not exceed six (6) days and at which there is no pari-mutuel wagering.

Section 25. KRS 230.620 is amended to read as follows:

(1) The Kentucky harness racing commission shall be an agency [~~independent~~] of *the Kentucky racing authority* [~~state administrative departments~~] and shall be in the public protection and regulation cabinet.

(2) The commission shall consist of nine (9) persons. The governor shall appoint seven (7) members and at least one (1) of these members shall have no financial interest in the business or industry regulated. The president pro tem of the senate shall appoint one (1) member and the speaker of the house shall appoint one (1) member. *Of* the seven (7) members appointed by the governor, *no more than three (3)* shall *be appointed from the same Kentucky congressional district* [~~serve a term beginning July 1, 1982, and ending January 1, 1984, or shall serve until their successors are appointed and duly qualified~~]. [~~Thereafter,~~] The seven (7) members appointed by the governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. The members appointed by the president pro tem of the senate and the speaker of the house shall serve a term of four (4) years [~~beginning July 1, 1982,~~] and shall serve until their successors are appointed and duly qualified.

(3) The commission shall biennially make a full report to the general assembly of its proceedings for the two-year period ending December 1 preceding the meeting of the general assembly, and shall embody in the report such suggestions and recommendations as it deems desirable.

(4) [~~The commission may appoint one (1) or more deputy commissioners and assistant deputy commissioners who shall perform such duties as prescribed by the commission.~~

~~(5)~~] The members of the commission shall receive fifty dollars ($50) per day for each commission meeting they attend.

Section 26. KRS 230.630 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of standardbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.610 to 230.760 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all standardbred horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of standardbred horse racing or interfere with the orderly conduct of standardbred horse racing; provided, however, no persons shall be excluded or ejected from association grounds on the basis of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track facilities or other places of business of any licensee for the purpose of satisfying itself that the provisions of KRS 230.610 to 230.760 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe rules, regulations and conditions under which standardbred horse racing shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any standardbred race meeting;

(4) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. The commission may advertise any of its regulations either before or after filing;

(5) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such;

(6) [~~The commission shall have authority to compel any racing association licensed under KRS 230.610 to 230.760 to file with the commission from time to time a balance sheet, showing assets and~~

~~liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association, and such other financial reports or other records as may be beneficial for the commission to conduct its business;~~

~~(7)~~] The present rules and regulations of the Kentucky trotting commission shall remain in effect as the initial rules and regulations of the Kentucky harness racing commission until revoked or modified by the Kentucky harness racing commission.

Section 27. KRS 230.640 is amended to read as follows:

(1) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the standardbred horse breeding industry within the Commonwealth and to encourage the improvement of the breed of standardbred horses. Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate standardbred racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all standardbred racing not licensed as provided herein is a public nuisance and may be enjoined as such. Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of standardbred racing, or the participation in any way in standardbred racing, or the entrance to or presence where standardbred racing is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the commission or its duly approved representatives acting in its behalf.

(2) It is hereby declared the purpose and intent of the Commonwealth in the interest of the public health, safety, and welfare, to vest in the commission *authority to regulate* [~~forceful control of~~] standardbred racing in the Commonwealth with [~~plenary~~] power to prescribe *necessary and reasonable* rules and regulations and conditions under which all legitimate standardbred racing and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breed of standardbred horses in the Commonwealth, to regulate and maintain standardbred racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled standardbred racing practices, and to regulate and maintain standardbred racing in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of standardbred racing in the Commonwealth. In addition to the general powers and duties vested in the commission, it is the intent hereby to vest in the commission the power to eject or exclude from association grounds, or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of standardbred racing or interfere with the orderly conduct of standardbred racing. The power of the commission to penalize persons for violation of KRS 230.610 to 230.760 or any rule or regulation of the commission shall not be limited to denial of, suspension of, revocation of, or voidance of a license to conduct or participate in standardbred racing, and ejection and exclusion of persons from association grounds but the commission may in its discretion impose fines not to exceed five thousand dollars ($5,000) against an association and one thousand dollars ($1,000) against other licensees in addition thereto.

Section 28. KRS 230.660 is amended to read as follows:

(1) [~~In addition to the employes referred to in KRS 230.650,~~] The commission may employ, at reasonable compensation, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any standardbred horse race meeting and to the best interest of standardbred racing. The commission for the purpose of maintaining integrity and honesty in standardbred racing shall prescribe by rule the powers and duties of the persons employed under this section or performing duties rendering services to an association. The commission shall promulgate rules and regulations for effectively preventing the use of improper devices[~~, the administration of drugs or stimulants~~] or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate[~~, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urinal or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.610 to 230.760 in such manner and in such proportions as the commission may by rule provide~~].

(2) The compensation of the employes referred to in this section shall be paid by the licensee directly or to the commission, as the commission shall direct the conducting of the standardbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission and costs of operation of the commission including but not limited to office rental, expenses, utilities, commissioners' actual expenses, etc. shall be prorated among and paid by the various associations licensed under *Section 3 of this Act* [~~KRS 230.610 to 230.760~~] in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the

licensee or association for convenience only.

(3) Each person, as a condition precedent to the privilege of receiving a license under *Section 3 of this Act* [~~KRS 230.610 to 230.760~~] to conduct standardbred horse race meetings shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section.

Section 29. KRS 230.680 is amended to read as follows:

No person, corporation or association shall hold or conduct any standardbred horse race meeting for any stake, purse, or reward within the Commonwealth of Kentucky without securing the required license from the *Kentucky racing authority* [~~commission~~], and paying to the *authority* [~~commission~~] the license fee which the *authority* [~~commission~~] may in its discretion prescribe.

Section 30. KRS 230.700 is amended to read as follows:

Every person not required to be licensed under *Section 3 of this Act* [~~KRS 230.690~~] who desires to participate in standardbred horse racing in the Commonwealth as a horse owner, trainer, driver, apprentice driver, agent, stable employe, racing official, association employe, mutuel clerk or employe of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in such activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interests of standardbred horse racing and the maintenance of the honesty, integrity, and high quality thereof. Such license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all standardbred horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the rules and regulations prescribed by the commission under KRS 230.610 to 230.760. Fees for all licenses issued under this section shall be prescribed by and paid to the commission.

Section 31. KRS 230.740 is amended to read as follows:

The provisions of KRS 230.610 to 230.760 are intended to be statewide and exclusive in their effect and no city, county or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances or regulations on the subject of standardbred horse race meetings. Any persons licensed under *Section 3 of this Act* [~~KRS 230.690~~] shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, admission taxes imposed by KRS 138.480 to 138.490, and the pari-mutuel taxes imposed by KRS 138.510(2), and all state, as well as local, ad valorem taxes; provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and standardbred horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

SECTION 32. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established an equine industry program at the University of Louisville, under the general control and direction of the university. The purpose of the equine industry program is to provide training and educational opportunities in the horse racing industry relating to, but not limited to, finance, management, marketing regulation and administration aspects of the horse racing industry, in accordance with the industry needs as determined by the university.

(2) There is hereby created a trust and revolving fund for the equine industry program, consisting of money allocated to the fund under the provisions of subsection (4) of this section, together with such other money as may be contributed or allocated to the fund from all other sources. Money to the credit of the equine industry program fund at the end of each fiscal year shall not lapse but shall be carried forward to the succeeding fiscal year. Money from the equine industry program fund shall be administered by the University of Louisville and shall be allocated for the funding of the equine industry program.

(3) The University of Louisville shall utilize personnel and facilities of Murray State University when appropriate for assistance in any cooperative undertakings the University of Louisville may wish to enter into with Murray State University relating to the equine industry program.

(4) The equine industry program shall receive two-tenths of one percent (.2%) of the total amount wagered in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing such program.

SECTION 33. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The president of the University of Louisville shall appoint an equine industry advisory commission composed of five (5) members who are Kentucky citizens and at least three (3) of whom shall be representatives of the Kentucky equine industry. One (1) of these appointees shall be designated chairman of the commission. Their terms shall be for four (4) years or until their successors are named.

(2) The equine industry advisory commission shall make recommendations to the president for development of a comprehensive equine industry program.

(3) The equine industry advisory commission members shall not be compensated for their time but expenses may be reimbursed from revenues derived as provided in Section 32 of this Act.

(4) Staff services for the equine industry advisory commission shall be provided by the University of Louisville.

Section 34. The following KRS sections are repealed:
230.230 Personnel duties -- Compensation.
230.280 License for race meeting required.
230.300 License to conduct race meeting.
230.650 Secretary of Commission -- Other personnel.
230.690 Prerequisite for license to race -- Award of dates.

Section 35. Whereas racing is being conducted all year and it is necessary to avoid conflicts in dates an emergency is declared to exist and Section 3 of this Act shall become effective upon its passage and approval by the Governor. All other sections of this Act shall become effective at the normal effective date.

The Committee Substitute to **HB 165** is as follows:

HB 165, AN ACT relating to the equine industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 137.170 is amended to read as follows:

(1) Every person engaged in the business of conducting a race track at which races are run for stakes, purses or prizes, under the jurisdiction of the state racing commission, shall pay a license tax to the state, as provided in subsection (2) of this section.

(2) Any such race track at which the average daily mutuel handle for any year commencing December 1 and ending the following November 30 exceeds the sum of *$900,000* [~~$600,000~~] per day for the days upon which races are actually conducted for any stake, purse or prize, shall pay a license tax of twenty-five hundred dollars ($2,500) per day for each such day. Any such track at which the average daily mutuel handle for any year commencing December 1 and ending the following November 30 exceeds $450,000 per day for each day upon which races are actually conducted for any stake, purse or prize, but does not amount to *$900,000* [~~$600,000~~], shall pay a license tax of one thousand dollars ($1,000) per day for each such day. Any such track at which the average daily mutuel handle for any year commencing December 1 and ending the following November 30 does not amount to $450,000 per day for the days upon which races are actually conducted for any stake, purse or prize, shall pay a license tax of five hundred dollars ($500) per day.

(3) As used in the preceding subsection the term "daily mutuel handle" shall be understood to mean the total gross amount of money bet or wagered by its patrons by means of pari-mutuel, combination or French pools.

Section 2. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to *five and three-fourths* [~~four and three-fourths~~] percent *(5 3/4%)* [~~(4 3/4%)~~] of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. [~~From July 15, 1982, until June 30, 1985,~~] Tracks with a daily average handle of less than $900,000 shall receive a tax credit amounting to *four* [~~three~~] percent *(4%)* [~~(3%)~~] of money wagered, to be allocated by contractual agreement between the qualified tracks and the *Kentucky division of the* horsemen's benevolent and protective association. *Of the monies retained by the tracks from the tax credit, after fulfilling contractual agreements, fifty percent (50%) shall be used by the tracks for capital improvements approved by the Kentucky state racing commission and fifty percent (50%) may be used at the discretion of the tracks.* Three-nineteenths (3/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400.

(2) An excise tax is imposed on every person, corporation or association which operates a standardbred horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. One-fifth (1/5) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770. *Associations* [~~From July 15, 1982, until June 30, 1985, tracks~~] with a daily average of less than three hundred thousand dollars

($300,000) shall receive a tax credit of two percent (2%) of all money wagered[~~, to be allocated to the tracks for capital improvements. Said capital improvements shall be approved by the harness racing commission~~].

Section 3. KRS 138.515 is amended to read as follows:

(1) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, shall not be less than fifteen percent (15%) nor more than *seventeen and one-half* [~~sixteen~~] percent *(17 1/2%)* [~~(16%)~~] at the discretion of those tracks averaging over nine hundred thousand dollars ($900,000) in pari-mutuel handle per racing day. The commission at those tracks averaging nine hundred thousand dollars ($900,000) or less in pari-mutuel handle per racing day, at the discretion of such track, shall not be less than sixteen and one half percent (16 1/2%) nor more than seventeen and one half percent (17 1/2%) in races where the patron is required to select one (1) horse, except that for the purposes of races conducted under the auspices of the quarter horse and appaloosa commission shall not exceed seventeen percent (17%) of the gross amount handled, and the breaks, which breaks shall be made and calculated to the dime.

(2) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system shall not exceed nineteen percent (19%) of the gross handle in races where the patron is required to select two (2) horses, and the breaks, which breaks shall be made and calculated to the dime.

(3) The racing association averaging nine hundred thousand dollars ($900,000) or less per racing day shall pay to the backside improvement fund an amount equal to one-half of the one percent (1/2 of 1%) of its commissions.

Section 4. KRS 230.215 is amended to read as follows:

(1) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the thoroughbred horse breeding industry within the Commonwealth and to encourage the improvement of the breed of thoroughbred horses. Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate thoroughbred racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all thoroughbred racing not licensed under KRS 230.210 to 230.360 and appaloosa racing not licensed under KRS 230.210 to 230.360 or 230.410 to 230.447 is a public nuisance and may be enjoined as such. Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of thoroughbred racing or appaloosa racing at a thoroughbred race meeting, or the participation in any way in thoroughbred racing or appaloosa racing at thoroughbred race meetings, or the entrance to or presence where thoroughbred racing and appaloosa racing is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the commission or its duly approved representatives acting in its behalf.

(2) It is hereby declared the purpose and intent of KRS 230.210 to 230.360 in the interest of the public health, safety, and welfare, to vest in the commission *authority to regulate* [~~forceful control of~~] thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth with [~~plenary~~] power to prescribe *necessary and reasonable* rules, [~~and~~] regulations and conditions under which all legitimate thoroughbred racing and appaloosa racing at thoroughbred race meetings and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breed of thoroughbreds in the Commonwealth, to regulate and maintain thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled thoroughbred racing or appaloosa racing practices, and to regulate and maintain thoroughbred racing and appaloosa racing at thoroughbred race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of thoroughbred racing and appaloosa racing in the Commonwealth. In addition to the general powers and duties vested in the commission by KRS 230.210 to 230.360, it is the intent hereby to vest in the commission the power to eject or exclude from association grounds or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing.

Section 5. KRS 230.218 is amended to read as follows:

(1) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a backside improvement commission. This commission shall consist of four (4) members[~~, three (3) of which shall be voting members and one (1) shall be a nonvoting member. The voting members shall be~~] as follows: one (1) member appointed by the president pro tempore of the Kentucky senate, one (1) member appointed by the speaker of the Kentucky house of representatives, [~~and~~] one (1) member appointed by the chairman of the Kentucky state racing commission, *and one*[~~. The nonvoting~~] member [~~shall be~~] appointed by

the Kentucky division of the horsemen's benevolent and protective association. The appointee of the chairman of the Kentucky state racing commission shall serve as chairman of the backside improvement commission. The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business.

(2) There is hereby created a trust and revolving fund for the backside improvement commission, consisting of money allocated to the fund under the provisions of KRS 138.515, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the backside improvement fund at the end of each fiscal year shall not lapse but shall be carried forward in such fund to the succeeding fiscal year. The backside improvement commission shall have the authority and may invest any and all funds received by the trust fund and interest earned by the investment of said funds in types of investments appropriate to the investment needs of the trust fund after having considered the financial return on authorized investment alternatives, the financial safety of investment alternatives and the impact of any authorized investments on the state's economy. The backside improvement commission shall review the status of the trust fund investments quarterly and report its findings to the finance and administration cabinet, the Kentucky state racing commission and the legislative research commission.

(3) The backside improvement commission shall employ such qualified personnel as may be required to assist the commission in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the backside improvement fund.

(4) The purpose of the fund shall be to improve the backside of racing associations averaging nine hundred thousand dollars ($900,000) or less pari-mutuel handle per racing day. The backside improvement commission shall use the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations. Said conditions shall include but not be limited to the living and working quarters of backside employes.

(5) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section.

Section 6. KRS 230.220 is amended to read as follows:

(1) There is hereby created the Kentucky state racing commission which shall be an independent agency of state government. The commission shall consist of nine (9) members seven (7) of whom shall be appointed by the governor. One (1) member shall be appointed by the president pro tempore of the senate and one (1) member shall be appointed by the speaker of the house of representatives. *Of the seven (7) members appointed by the governor no more than three (3) shall be from the same congressional district.* In making appointments, the governor shall secure broad representation within the thoroughbred industry, to include appointment of no fewer than two (2) breeders, no fewer than two (2) horsemen[~~, and the geographic areas in which licensed racing associations are located shall be considered~~]. Recommendations for said appointments shall be sought from various industry groups, to include the Kentucky thoroughbred owners and breeders, inc., the Kentucky division of the horsemen's benevolent and protective association, and other interested organizations. At least one (1) of the members appointed by the governor shall have no financial interest in the business or industry regulated. [~~The seven (7) members appointed by the governor shall serve a term beginning July 1, 1982 and ending January 1, 1984, or shall serve until their successors are appointed and duly qualified. Thereafter,~~] The seven (7) members appointed by the governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. The members appointed by the president pro tem of the senate and the speaker of the house shall serve a term of four (4) years [~~beginning July 1, 1982,~~] and shall serve until their successors are appointed and duly qualified. Any vacancy on the commission shall be filled pursuant to the requirements and procedures for original appointments. Commissioners shall receive fifty dollars ($50) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The commission shall designate one (1) of their number as chairman and another as vice chairman. Before entering upon the discharge of their duties, each commissioner shall take the constitutional oath of office.

(2) The commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices. The commission may hold meetings at any of such offices or at any other place when the convenience of the commission requires. All meetings of the commission shall be open and public, and all persons shall be permitted to attend any meetings. A majority of the commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

Section 7. KRS 230.240 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by rule the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible

for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate. *Any regulation promulgated to regulate drugs shall be necessary and reasonable and based on recommendations of the Kentucky equine drug research council as supported by valid scientific research.*[~~, and~~] In connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.210 to 230.360 in such manner and in such proportions as the commission may by rule provide.

(3) The compensation of the employes referred to in this section shall be paid by the licensee conducting the thoroughbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission shall be prorated among and paid by the various associations licensed under KRS 230.210 to 230.360 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(4) Each person, as a condition precedent to the privilege of receiving a license under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting, shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 8. KRS 230.260 is amended to read as follows:

The commission, in the interest of *racing* [~~breeding or the improvement of the breed of thoroughbred horses~~], shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or appaloosa racing or interfere with the orderly conduct of thoroughbred racing or appaloosa racing at thoroughbred race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.210 to 230.3611 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable rules, regulations and conditions under which thoroughbred horse racing and appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting, except that the commission shall not prefer by regulation or otherwise any licensees in their contractual relations with one another;

(4) The commission shall meet a minimum of three (3) times a year in joint session with the Kentucky harness racing commission to discuss matters of mutual interest or concern.

(5) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission;

(6)[~~(5)~~] Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the legislative research commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the legislative research commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(7)[~~(6)~~] The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8)[~~(7)~~] *The commission shall compel a licensed racing association to publish and file with the commission within thirty (30) days after any thoroughbred race meeting conducted by it, the criteria it will use in allocating or denying stalls to applicants at its next race meeting. Said criteria shall state specifically the type of application it will prefer as well as the type of application it will reject, unless a licensed racing association has a written agreement with all organizations that represent at least thirty-four percent (34%) of the owners and trainers who raced thoroughbred horses in Kentucky within the twelve (12) preceding months*

that states a different method to be used in lieu thereof.

(9) The allocation of stalls and the acceptance or rejection of entries or subscriptions for thoroughbred racing by licensed racing associations shall not require as a condition of stabling or entering in a thoroughbred race the waiver or conveyance of any property or performance rights by any applicant.

(10) No licensed racing association shall prefer any licensee over another unless expressly provided for by chapter 810 of the Kentucky administrative regulations or by chapter 230 of the Kentucky revised statutes.

(11) The commission shall have authority to compel any racing association licensed under KRS 230.210 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

Section 9. KRS 230.265 is amended to read as follows:

(1) There is hereby created a panel, to be known as the Kentucky equine drug research council, to advise the commission on the conduct of equine drug research and testing commissioned by the state racing commission. The council shall consist of *eight (8)* [~~seven (7)~~] members: a veterinarian appointed by the Kentucky association of equine veterinarians, a horseman appointed by the Kentucky division of the horsemen's benevolent and protective association, a pharmacologist appointed by the University of Kentucky, a thoroughbred breeder appointed by the Kentucky thoroughbred owners and breeders, inc., a legislator appointed by the legislative research commission, a representative of a licensed racing association, [~~and~~] a member of the state racing commission, appointed by the chairman of the state racing commission, to serve as chairman *and a representative of the harness racing commission, appointed by the chairman of the harness racing commission.* The council shall meet at the call of the chairman, a majority of the council or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky equine drug research council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make *all* recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to *each* [~~the 1984~~] general assembly any needed changes regarding the regulation of drugs in thoroughbred *and harness* racing in the Commonwealth of Kentucky.

(3) The commission shall receive one-tenth of one percent (.1%) of the total amount wagered in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing drug research and testing research in Kentucky, *pursuant to recommendations by the council,* which shall be in addition to any funds appropriated to the commission for such purposes in the executive budget.

Section 10. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct thoroughbred racing and Appaloosa racing at a thoroughbred race meeting within the Commonwealth of Kentucky during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by rule require.

(2) The commission shall as soon as practicable, but in no event later than March 1 in any calendar year award dates for racing in the Commonwealth during the year. *The commission shall not award overlapping or concurrent racing dates for the same breed of horse unless such dates are agreed to by the associations affected. Racing dates awarded for calendar year 1984 and any succeeding year not in compliance with this section shall be null and void and dates equivalent to those awarded for 1982 shall be substituted in lieu thereof. Any variance shall occur only if agreed to by any affected association and approved by the commission.* In the event scheduled racing is canceled by reason of flood, fire, or inclement weather, the commission may award after March 1 additional racing dates to make up for those dates canceled by such flood, fire, or inclement weather. The commission may issue such license to conduct a thoroughbred race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under KRS 230.210 to 230.360 shall specify among other things the name of the person to whom issued, the address and location of the track where the thoroughbred race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a thoroughbred race meeting at any track not specified therein. However, if the track specified becomes unsuitable for thoroughbred racing or Appaloosa racing because of flood, fire or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) Thoroughbred racing dates may be awarded and licenses issued authorizing thoroughbred racing and Appaloosa racing at a thoroughbred race meeting on any day of the year. Thoroughbred racing or Appaloosa racing at thoroughbred race meetings shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with thoroughbred racing or Appaloosa racing at a thoroughbred race meeting or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(7) Every thoroughbred race not licensed under this section or Appaloosa race not licensed by this section or KRS 230.410 to 230.447 is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Section 11. KRS 230.330 is amended to read as follows:

Any licensee or any applicant aggrieved by any order of the commission may appeal to the Franklin Circuit Court *or the circuit court in the county where the controversy, cause of action or some part thereof arose,* within the time and in the manner provided by KRS 243.560 to 243.590.

Section 12. KRS 230.361 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and appaloosa races at a thoroughbred race meeting under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) Other provisions of the Kentucky Revised Statutes notwithstanding, the commission shall permit a licensed association to conduct pari-mutuel wagering on racing conducted at another licensed association in the Commonwealth. Such wagering shall form a common pool with wagering conducted by the association conducting the racing. The commission shall also permit licensed associations to conduct pari-mutuel wagering on special event races conducted in other states or foreign countries, which are determined to be of sufficient national or international significance or interest to warrant interstate wagering. All such wagering shall form a common pool and shall be conducted in accordance with applicable federal law. *Wagering conducted under this subsection shall be referred to as "multi-track wagering" and shall be subject to necessary and reasonable regulation by the commission.*

(3) *No multi-track wagering shall be permitted unless the track conducting the wagering has a written agreement giving consent to the use of multi-track wagering from all organizations which represent at least thirty-four percent (34%) of the owners and trainers that raced thoroughbred horses in Kentucky within the twelve (12) preceding months.*

(4) The take-out for pari-mutuel wagering conducted under subsection (2) of this section shall be an amount equal to that withheld under the provisions of KRS 138.515. Gross revenues retained from such wagering, after payment of the pari-mutuel tax only, shall be applied to purses *at the track conducting the wagering* in the same percent ratio as gross revenues from on-track pari-mutuel wagering, after payment of the pari-mutuel tax only, are applied to purses. Remaining revenues shall be apportioned by contractual agreement between the association conducting the racing and the association conducting the wagering under subsection (2). The pari-mutuel tax credit permitted in KRS 138.510 shall not apply to pari-mutuel wagering conducted under subsection (2) of this section.

(5)[~~(4)~~] In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(6)[~~(5)~~] All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

Section 13. KRS 230.400 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky state racing commission, designated as the Kentucky thoroughbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the Kentucky thoroughbred development fund shall be distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky state racing commission and upon approval of the secretary of the finance and administration cabinet. Money from the Kentucky thoroughbred development fund shall be allocated to each licensed association in an amount equal to the amount the association contributed to the fund. Money to the credit of the Kentucky thoroughbred development fund at the end of each fiscal year shall not lapse, but shall be carried forward in such fund to the succeeding fiscal year.

(2) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a Kentucky thoroughbred development fund advisory committee. The advisory committee shall consist of five (5) members, all of whom shall be residents of Kentucky, to be appointed by the chairman of the Kentucky state racing commission by July 1 of each year. The committee shall consist of *one (1)* [~~two (2)~~] thoroughbred breeders recommended by the Kentucky thoroughbred owners and breeders, inc.; one (1) thoroughbred owner recommended by the Kentucky division of the horsemen's benevolent and protective association; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky *averaging nine hundred thousand dollars ($900,000) or less per racing day in pari-mutuel handle; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky averaging over nine hundred thousand dollars ($900,000) per racing day in pari-mutuel handle* [~~, recommended by action of all of the licensed associations conducting thoroughbred racing in Kentucky~~]; and one (1) member of the Kentucky state racing commission. If any member other than the commission member has not been recommended for appointment by July 1 of each year, the chairman of the Kentucky state racing commission shall make an appointment for the organization or organizations failing to so recommend a member of the committee. The members of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business. The advisory committee shall select from its membership annually a chairman and a vice chairman.

(3) (a) The Kentucky thoroughbred development fund committee shall advise and assist the Kentucky state racing commission in the development of the supplemental purse program provided herein for Kentucky bred thoroughbreds, shall make recommendations to the commission from time to time with respect to the establishment of guidelines, rules and regulations for the provision of such supplemental purses, the amount thereof, the races for which such purses are to be provided and the conditions thereof, manner and method of payment of such supplemental purses, registry of thoroughbred stallions standing within the Commonwealth of Kentucky, registry of Kentucky bred thoroughbreds for purposes of this section, nature and type of forms and reports to be employed and required in connection with the establishment, provision for, award and payment of such supplemental purses and with respect to all other matters necessary in connection with the carrying out of the intent and purposes of this section.

(b) The Kentucky state racing commission shall employ such qualified personnel as may be required to assist the commission and the advisory committee in carrying out the provisions of this section. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the Kentucky thoroughbred development fund.

(4) The Kentucky state racing commission, with the advice and assistance of the Kentucky thoroughbred development fund advisory committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses for [~~designated stakes, handicap,~~] allowance and non-claiming maiden races contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in such races by Kentucky bred thoroughbred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning and placing horses in the same proportion as the stake or purse provided for such race by the racing association. Winning or placing as used in this section shall include those horses finishing first, second, third and fourth in such races. That portion of the supplemental purse provided for any [~~such designated~~] race for a winning or placing finish shall be awarded and paid to the owner of the horse so finishing only if such horse is a Kentucky bred thoroughbred duly registered as such with the official registrar. Any portion of the supplemental purse which is not awarded and paid over shall be returned to the Kentucky thoroughbred development fund.

(5) (a) For purposes of this section, the term Kentucky thoroughbred stallion shall mean and include only a thoroughbred stallion standing the entire breeding season in Kentucky and registered as a Kentucky thoroughbred stallion with the official registrar of the Kentucky thoroughbred development fund.

(b) Except for thoroughbred horses foaled prior to January 1, 1980, the term Kentucky bred thoroughbreds for purposes of this section, shall mean and include only thoroughbred horses sired by

Kentucky thoroughbred stallions foaled in Kentucky and registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a Kentucky bred thoroughbred for purposes of this section if such horse was foaled in Kentucky and if the sire of such thoroughbred was standing at stud within Kentucky at the time of conception of such thoroughbred, provided such thoroughbred is duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(d) In order for an owner of a Kentucky sired thoroughbred to be eligible to demand, claim and receive a portion of a supplemental purse provided by the Kentucky thoroughbred development fund, the thoroughbred horse winning or placing in a designated race for which a supplemental purse has been provided by the Kentucky thoroughbred development fund must have been duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund prior to entry in such race.

(6) (a) *The* Kentucky *state racing commission* [~~Thoroughbred Owners and Breeders, Inc.,~~] is hereby recognized and designated as the sole official registrar of the Kentucky thoroughbred development fund for the purposes of registering Kentucky thoroughbred stallions and Kentucky bred thoroughbreds in accord with the terms of this section and such rules and regulations as may be promulgated by the Kentucky state racing commission. When a Kentucky bred thoroughbred is registered with the official registrar, the registrar shall be authorized to stamp the Jockey Club certificate issued for such thoroughbred with the seal of the registrar, certifying that the said thoroughbred is a duly qualified and registered Kentucky bred thoroughbred for purposes of this section. The *commission* [~~registrar~~] may establish and charge[~~, with the approval of the commission,~~] reasonable registration fees, *not to exceed twenty-five dollars ($25),* for its services in the registration of Kentucky thoroughbred stallions and in the registration of Kentucky bred thoroughbreds. Registration records of the *commission* [~~registrar~~] shall be public records and open to public inspection at all normal business hours and times.

(b) Any interested party aggrieved by the failure or refusal of the official registrar to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky bred thoroughbred shall have the right to file with the commission, within thirty (30) days of such failure or refusal of the *commission* [~~registrar~~], petition seeking *a rehearing on the matter* [~~registration of such thoroughbred~~]. The commission shall promptly hear the matter de novo and issue its order [~~directing the official registrar~~] to register or not to register [~~as it may be determined by the commission~~].

(7) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including the adoption of such rules and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky bred thoroughbreds with the official registrar, and shall administer the Kentucky bred thoroughbred program created hereby in a manner best designed to promote and aid in the further development of the thoroughbred breeding industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky and to improve the quality of thoroughbred horses bred in Kentucky.

Section 14. KRS 230.620 is amended to read as follows:

(1) The Kentucky harness racing commission shall be an agency independent of state administrative departments and shall be in the public protection and regulation cabinet.

(2) The commission shall consist of nine (9) persons. The governor shall appoint seven (7) members and at least one (1) of these members shall have no financial interest in the business or industry regulated. The president pro tem of the senate shall appoint one (1) member and the speaker of the house shall appoint one (1) member. *Of* the seven (7) members appointed by the governor, *no more than three (3)* shall *be appointed from the same Kentucky congressional district* [~~serve a term beginning July 1, 1982, and ending January 1, 1984, or shall serve until their successors are appointed and duly qualified~~]. [~~Thereafter,~~] The seven (7) members appointed by the governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. The members appointed by the president pro tem of the senate and the speaker of the house shall serve a term of four (4) years [~~beginning July 1, 1982,~~] and shall serve until their successors are appointed and duly qualified.

(3) The commission shall biennially make a full report to the general assembly of its proceedings for the two-year period ending December 1 preceding the meeting of the general assembly, and shall embody in the report such suggestions and recommendations as it deems desirable.

(4) The commission may appoint one (1) or more deputy commissioners and assistant deputy commissioners who shall perform such duties as prescribed by the commission.

(5 The members of the commission shall receive fifty dollars ($50) per day for each commission meeting they attend.

Section 15. KRS 230.630 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of standardbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.610 to 230.760 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all standardbred horse race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of standardbred horse racing or interfere with the orderly conduct of standardbred horse racing; provided, however, no persons shall be excluded or ejected from association grounds on the basis of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track facilities or other places of business of any licensee for the purpose of satisfying itself that the provisions of KRS 230.610 to 230.760 and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe rules, regulations and conditions under which standardbred horse racing shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any standardbred race meeting;

(4) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. The commission may advertise any of its regulations either before or after filing;

(5) *The commission shall meet a minimum of three (3) times a year in joint session with the Kentucky state racing commission to discuss matters of mutual interest or concern.*

(6) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties. Any person failing to appear before the commission at the time and place specified in said summons, or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such;

(7)[~~(6)~~] The commission shall have authority to compel any racing association licensed under KRS 230.610 to 230.760 to file with the commission from time to time a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association, and such other financial reports or other records as may be beneficial for the commission to conduct its business;

(8)[~~(7)~~] The present rules and regulations of the Kentucky trotting commission shall remain in effect as the initial rules and regulations of the Kentucky harness racing commission until revoked or modified by the Kentucky harness racing commission.

Section 16. KRS 230.640 is amended to read as follows:

(1) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the standardbred horse breeding industry within the Commonwealth and to encourage the improvement of the breed of standardbred horses. Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate standardbred racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all standardbred racing not licensed as provided herein is a public nuisance and may be enjoined as such. Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of standardbred racing, or the participation in any way in standardbred racing, or the entrance to or presence where standardbred racing is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the commission or its duly approved representatives acting in its behalf.

(2) It is hereby declared the purpose and intent of the Commonwealth in the interest of the public health, safety, and welfare, to vest in the commission *authority to regulate* [~~forceful control of~~] standardbred racing in the Commonwealth with [~~plenary~~] power to prescribe *necessary and reasonable* rules and regulations and conditions under which all legitimate standardbred racing and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breed of standardbred horses in the Commonwealth, to regulate and maintain standardbred racing in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled standardbred racing practices, and to regulate and maintain standardbred racing in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of standardbred racing in the Commonwealth. In addition to the general powers and duties vested in the commission, it is the intent hereby to vest in the commission the power to eject or exclude from association grounds, or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of standardbred racing or interfere with the orderly conduct of standardbred racing. The power of the commission to penalize persons for violation of KRS 230.610 to 230.760 or any rule or regulation of the

commission shall not be limited to denial of, suspension of, revocation of, or voidance of a license to conduct or participate in standardbred racing, and ejection and exclusion of persons from association grounds but the commission may in its discretion impose fines not to exceed five thousand dollars ($5,000) against an association and one thousand dollars ($1,000) against other licensees in addition thereto.

Section 17. KRS 230.660 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.650, the commission may employ, at reasonable compensation, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any standardbred horse race meeting and to the best interest of standardbred racing. The commission for the purpose of maintaining integrity and honesty in standardbred racing shall prescribe by rule the powers and duties of the persons employed under this section or performing duties rendering services to an association. The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate. *Any regulation promulgated to regulate drugs shall be necessary and reasonable and based on recommendations of the Kentucky equine drug research council as supported by valid scientific evidence.* [~~, and~~] In connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urinal or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.610 to 230.760 in such manner and in such proportions as the commission may by rule provide.

(2) The compensation of the employes referred to in this section shall be paid by the licensee directly or to the commission, as the commission shall direct the conducting of the standardbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission and costs of operation of the commission including but not limited to office rental, expenses, utilities, commissioners' actual expenses, etc. shall be prorated among and paid by the various associations licensed under KRS 230.610 to 230.760 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(3) Each person, as a condition precedent to the privilege of receiving a license under KRS 230.610 to 230.760 to conduct standardbred horse race meetings shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section.

SECTION 18. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established an equine industry program at the University of Louisville, under the general control and direction of the university. The purpose of the equine industry program is to provide training and educational opportunities in the horse racing industry relating to, but not limited to, finance, management, marketing regulation and administration aspects of the horse racing industry, in accordance with the industry needs as determined by the university.

(2) There is hereby created a trust and revolving fund for the equine industry program, consisting of money allocated to the fund under the provisions of subsection (4) of this section, together with such other money as may be contributed or allocated to the fund from all other sources. Money to the credit of the equine industry program fund at the end of each fiscal year shall not lapse but shall be carried forward to the succeeding fiscal year. Money from the equine industry program fund shall be administered by the University of Louisville and shall be allocated for the funding of the equine industry program.

(3) The University of Louisville shall utilize personnel and facilities of Murray State University when appropriate for assistance in any cooperative undertakings the University of Louisville may wish to enter into with Murray State University relating to the equine industry program.

(4) The equine industry program shall receive two-tenths of one percent (.2%) of the total amount wagered in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing such program.

SECTION 19. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The president of the University of Louisville shall appoint an equine industry advisory commission composed of five (5) members who are Kentucky citizens and at least three (3) of whom shall be representatives of the Kentucky equine industry. One (1) of these appointees shall be designated chairman of the commission. Their terms shall be for four (4) years or until their successors are named.

(2) The equine industry advisory commission shall make recommendations to the president for development of a comprehensive equine industry program.

(3) The equine industry advisory commission members shall not be compensated for their time but expenses may be reimbursed from revenues derived as provided in Section 18 of this Act.

(4) Staff services for the equine industry advisory commission shall be provided by the University of Louisville.

Section 20. Whereas racing is being conducted all year and it is necessary to avoid conflicts in dates an emergency is declared to exist and Section 10 of this Act shall become effective upon its passage and approval by the Governor.

Calendar

HB 404, HB 548, HB 569, HB 598, HB 364, HB 631, HB 297, HB 424, HB 589, HB 594, HB 653, SB 2, SB 65, SB 102, SB 121, HB 139, HB 330, HB 536, HB 601, HB 292, HB 246, HB 517, HB 415, and **HB 493** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SB 92, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by majority of members elected.

Representative Cowan moved the adoption of the Floor Amendment No. 2 to **SB 92.** Agreed.

Representative Cowan moved that **SB 92,** as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 92, as amended, was passed.

Representative Cowan moved the adoption of the Floor Title Amendment No. 2 to **SB 92.** Agreed.

Representative LeMaster moved that the vote by which **SB 92,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 170 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 170** be passed.

On the roll call the vote was yeas 87-Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Barrows, Clarke, Hancock, Petty.

HB 170 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 170** was passed be reconsidered and said

motion be placed on the table. Agreed.

HB 182, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Amendment No. 1 to **HB 182.** Agreed.

Representative Arnold moved that **HB 182,** as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 182, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 182,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 14** and **SB 35** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:37 a.m.).

Orders of the Day (Continued)

HB 610 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 610** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, Layman, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 610 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 610** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 8 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HJR 8** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HJR 8 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HJR 8** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 160, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 160.** Agreed.

Representative Moberly moved that **HB 160,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 68-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Freibert, Gedling, Gray, Hancock, Handy, Harper, Heleringer, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McElroy, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Petty, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 23-Allen, Brown, Craddock, Dawahare, Ellington, Ford, Foster, Fryman, Guenthner, Head, Holbrook, Holloway, Layman, Lefevers, McNutt, Moore, Noland, Overstreet, Pearman, Richards, Robinson, Todd, Turner.

HB 160, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 160,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HB 290, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Amendment No. 1 to **HB 290.** Agreed.

Representative Cyrus moved that **HB 290,** as amended, be passed.

On the roll call the vote was yeas 75-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Gedling, Gray, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McElroy, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Van Horn, Williams, Worthington, Yates. Nays 13-Allen, Craddock, Ellington, Freibert, Fryman, Harper, Kidd, Layman, McNutt, Morris, Tobinson, Turner, White.

HB 290, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 290,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 79, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **SB 79** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 79 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 79** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Williams moved the adoption of the following Legislative Citation No. 71. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes United States Representative Ron Dellums of California to the Commonwealth of Kentucky. Your contribution to City Government beginning in Berkeley in 1967 is most admirable. In your fourteen years of service in Congress, you have been a leading advocate of the Peace Movement. Being the first to conduct Congressional investigations of war crimes in Vietnam and to fully investigate problems of racism in the military is especially noteworthy. Your constant and continuing involvement in the numerous United States military interests' is exemplary of your outstanding record in promoting rational military policies. Your contribution to the United States of America is far reaching and most creditable.

This honorable body highly commends you for your fortitude, dedication and most noteworthy endeavors. (Sponsored by Representative Williams)

Representative Reinhardt moved the adoption of the following Legislative Citations No. 67 through No. 70. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Falmouth Fire Department, Falmouth, Kentucky, for your indispensable and outstanding services to your community in fire prevention and safety, ultimate protection and the public welfare. In the midst of great perils, you have made the supreme sacrifice of life, always going beyond the call of duty, investing long hours and tireless efforts. Improved services have resulted because of modern equipment provided and your extensive training demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and sacrificial service to all mankind. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Bob Pettit, Chief of the Falmouth Fire Department, Falmouth, Kentucky for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. Certainly, we applaud you for your excellent leadership and your willingness to accept the responsibility of Chief. IN the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Larry

Florence, Assistant Chief of the Falmouth Fire Department, Falmouth, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society. This body salutes you for your courageous and vigilant service. (Sponsored by Representative Reinhardt)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Doug Spencer, Assistant Chief of the Falmouth Fire Department, Falmouth, Kentucky for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service. You have distinguished yourself in the high calling of public service this is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self sacrifice and self denial are helping to build a healthy and wholesome community and society.

This body salutes you for your courageous and vigilant service. (Sponsored by Representative Reinhardt)

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introductions of Bills and Resolutions

HB 754, by Representative Johnson: AN ACT relating to theft by deception.

HB 755, by Representative Johnson: AN ACT relating to guardians, conservators and mentally disabled persons.

HB 756, by Representatives Petty, Mann, Donnermeyer: AN ACT relating to planning.

HB 757, by Representative Mann: AN ACT relating to teachers retirement system.

HB 758, by Representatives Burnette, B. Smith, and McElroy: AN ACT relating to grain and making an appropriation therefor.

HB 759, by Representatives Meyer, Johnson, Harper, Donnermeyer, Caldwell, Lundergan, Petty, Mann, Reinhardt, and Crupper: AN ACT relating to community mental health-mental retardation programs.

HB 760, by Representative F. Smith: AN ACT relating to death benefits.

HB 761, by Representatives Cowan and Barrows: AN ACT relating to first party insurance claims.

HB 762, by Representatives Handy, Perkins, Hines, Kenton, Bendl, P. Clark, Gedling, Heleringer, Riner, Fryman, B. Smith, Donnermeyer, Gray, Meyer, Priddy, Cowan, Kidd, McElroy, Bruce, Morris, Bronger, Yates, Nett, Guenthner, Harper, Lile, and Seum: AN ACT relating to cities.

HR 80, by Representative Endicott: A RESOLUTION honoring the one hundred and fifty year anniversary of the City of Paintsville, Kentucky.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 23, HB 24, HB 37, HB 369, HB 433,** and **HJR 4** had been examined and found correctly enrolled. Said Bills and Resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 11:00 a.m.)

HB 23, HB 24, HB 37, HB 369, HB 433, and **HJR 4** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 681.**

Appropriations and Revenue: **HB 684, HB 18, HB 285.**

Motions, Petitions, and Communications (continued)

Representative Johnson moved that **HB 639** be reassigned to the Committee on Cities. Agreed.

Representative Endicott moved the adoption of the following **HR 80:**

HR 80, A RESOLUTION honoring the one hundred and fifty year anniversary of the City of Paintsville, Kentucky.

WHEREAS, the City of Paintsville was created by an act of the Kentucky General Assembly on February 24, 1834; and

WHEREAS, the people of Paintsville are now participating in a year-long sesquicentennial celebration; and

WHEREAS, the City of Paintsville is the most progressive and fastest growing city in Eastern Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives, in recognition of the 150 year anniversary of the legislative grant of a charter to the City of Paintsville on February 24, 1834, and in full recognition of the social, cultural, educational, and economic advancements of Paintsville and her residents throughout the course of these 150 years, join the people of that fair city in the jubilant celebration of Paintsville's sesquicentennial, on February 24, 1984.

Section 2. That the House of Representatives order the clerk of the House of Representatives to send copies of this resolution to the mayor and city council of Paintsville, and the president of the Paintsville sesquicentennial commission.

HR 80 was adopted by voice vote.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **HCR 73,** by Representative Heleringer:

Amend printed copy of **HCR 73,** by amending the first WHEREAS clause to read:

"WHEREAS, the wholesale killing of the defenseless unborn by legalized abortion on demand poses a serious threat to the family unit;"

And by amending the second WHEREAS clause to read:

"WHEREAS, the right to life is guaranteed by the Ninth and Fourteenth Amendments to the United States Constitution; and"

And by amending the third WHEREAS clause to read:

"WHEREAS, our moral values and the lives of innocent pre-born human beings are gravely threatened by the continued legalization of abortion on demand;"

And on page 1, line 1, by deleting "integrity of the" and substituting in lieu thereof "pernicious";

And on line 2, by deleting "protecting the constitutional" and substituting in lieu thereof "legalizing the wholesale killing of the defenseless unborn";

And by deleting line 3 in its entirety;

And on line 4, by deleting "freedom";

And also on line 4, by deleting "reaffirmed" and substituting in lieu thereof "denounced as the most reprehensible and shameful decisions since *Dred Scott, Buck v. Bell* and *United States v. Korematsu*";

And by adding at the conclusion of line 4 the following:

"Section 2. That a copy of this resolution be sent, by express mail, to every current justice of the United States Supreme Court."

Floor Amendment No. 2 to **HCR 73,** by Representative Heleringer:

Amend printed copy of **HCR 73,** by amending the title to read:

"A CONCURRENT RESOLUTION condemning the United States Supreme Court decisions interpreting certain constitutional rights."

Floor Amendment No. 1 to **HB 484,** by Representative Heleringer:

Amend printed copy of **HB 484,** page 2, line 1, by deleting the brackets around the word "[Powell]";

And on page 2, line 10, by deleting the word "*Powell.*"

Floor Amendment No. 1 to **HB 568,** by Representative Moberly:

Amend printed copy of **HB 568,** page 1, line 18, by inserting after the "comma" the following: *a voted building tax rate, as provided for in KRS 160.477, or any of the permissive taxes provided for in KRS 160.482 through 160.648*

Floor Amendment No. 3 to **HB 598,** by Representative Harper:

Amend printed copy of **HB 598,** page 1, lines 4-13, by deleting said lines entirely and inserting in lieu thereof the following:

"and on Page 7, after line 20, and before line 21, by inserting the following: "*(1) The bonds may be issued to bear interest at a rate fixed by the governing body of the issuer, payable either annually or at shorter intervals, may be of such terms and maturities, may bear such conversion privileges, may be executed by the manual or facsimile signatures of such officers of the issuer and shall be executed in such manner and be payable at such times not exceeding thirty (30) years from date thereof and at such place or places as the governing body of the issuer determines.*"

and on the last line of page 1, by deleting "*(2)*" and inserting in lieu thereof the following:

"*(2) Bonds issued to finance pollution control facilities may*"

and on line 21, by placing brackets around and striking through the words "The bonds may be issued to."

Floor Amendment No. 1 to **HB 634,** by Representative B. Richardson:

Amend printed copy of **HB 634,** on page 1, line 21, by deleting the word "*such.*"

Adjournment

Representative LeMaster moved that the House adjourn until 4 p.m., Monday, February 27, 1984.

On the roll call the vote was yeas 63-Allen, Bendl, Bennett, Blevins, Bronger, Caldwell, Clapp, L. Clark, P. Clark, Cowan, Craddock, Crupper, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gedling, Hancock, Handy, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, Lile, List, Long, Lundergan, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Reinhardt, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 1-Maggard.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 27, 1984

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Dwight D. Elam, Peyton's Lick Christian Church, Mt. Sterling, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 24, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 763, by Representative Nett: AN ACT relating to election campaign finance.

HB 764, by Representative Ellington: AN ACT relating to disaster and emergency response powers of local government.

HB 765, by Representative LeMaster: AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

HB 766, by Representative LeMaster: AN ACT relating to scholarships and grants from the Kentucky Higher Education Assistance Authority.

HB 767, by Representative F. Smith: AN ACT relating to boats and boating.

HB 768, by Representative F. Smith: AN ACT changing the classification of the City of Pioneer Village in Bullitt County.

HB 769, by Representative Noe: AN ACT relating to the department of education.

HB 770, by Representative Noe: AN ACT relating to workers' compensation.

HB 771, by Representative Noe: AN ACT relating to the state vocational rehabilitation agency.

HB 772, by Representative Cowan: AN ACT relating to medical and osteopathic licensure.

HB 773, by Representative Van Horn: AN ACT relating to crimes and punishments.

HJR 81, by Representative T. Jones: A RESOLUTION directing the Legislative Research Commission to create a task force to study the laws applicable to the schools of Kentucky and make recommendations for any necessary revision and recodification.

Senate Message

Announcing passage of **SB 17, SB 67, SB 148, SB 174, SB 208, SB 215, SB 219, SB 232, SB 257, SB 261, SB 263, SB 269, HB 273** with Senate Amendment, **HB 80,** and **HB 127.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 758.**

Appropriations and Revenue: **HB 750.**

Banking and Insurance: **HB 761.**

Cities: **HB 753, HB 756, HB 762.**

Counties and Special Districts: **HB 751, HB 752.**

Education: **HB 757.**

Health and Welfare: **HB 759.**

Judiciary-Civil: **HB 755, SB 194, SB 229.**

Judiciary-Criminal: **HB 754.**

State Government: **HB 760.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 742, HB 639, HB 571, HB 431, SB 81.**

Report of Committees

The Committee on Rules reported **HB 20, HB 246, HB 364, HB 493, HB 631, HB 653, SB 2, SB 102, HB 558, SCR 14, SB 64,** and **HB 320** have been posted for passage in Orders of the Day, February 28, 1984.

The Committee on Rules reported the following Bills have been recommitted:

To the Committee on Appropriations and Revenue: **HB 594, HB 361.**

To the Committee on Judiciary-Civil: **HB 445.**

Calendar

HB 165 taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 596 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved that **HB 596** be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Moore.

HB 596 was passed and the title agreed to.

Representative Kenton moved that the vote by which **HB 596** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 20 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HJR 20** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HJR 20 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HJR 20** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 1, HB 7, HB 19, HB 73,** and **HB 208** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time 4:21 p.m.)

HB 1, HB 7, HB 19, HB 73, and **HB 208** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 583, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 583.** Agreed.

Representative LeMaster moved that **HB 583,** as amended, be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Mann, Smith, F. J.

HB 583, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 583**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 8 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SCR 8** be passed.

On the roll call the vote was yeas 89-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Williams, Worthington, Yates. Nays 3-Heleringer, Patrick, Todd.

SCR 8 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SCR 8** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 568, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 568** be passed.

Representative Moberly moved the adoption of the Floor Amendment No. 1 to **HB 568**.

On the roll call the vote was yeas 40-Allen, Brinkley, Bruce, Burnette, Clapp, Cline, Craddock, Crupper, Dawahare, Ellington, Endicott, Ford, Fryman, Gedling, Gray, Guenthner, Head, Heleringer, Layman, Lefevers, Maggard, McNutt, Moberly, Morris, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Rapier, P. Richardson, Robinson, Stone, Stumbo, Todd, Turner, White, Worthington, Yates. Nays 55-Barrows, Bendl, Bennett, Blandford, Blevins, Bronger, Brown, Burch, Caldwell, L. Clark, Clarke, Cowan, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Foster, Freibert, Hancock, Harper, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, Meyer, Moore, Nett, O'Brien, Petty, Priddy, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Seum, B. Smith, F. Smith, Thomas, Van Horn, Williams.

Floor Amendment No. 1 to **HB 568** was rejected.

Representative Clarke moved that **HB 568** be passed.

On the roll call the vote was yeas 58-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Freibert, Guenthner, Hancock, Harper, Holbook, Holloway, Johnson, R. Jones, T. Jones, Kenton, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, Meyer, Nett, Noe, O'Brien, Perkins, Petty, Priddy, Reinhardt, Richards, B. Richardson, Riner, B. Smith, F. Smith, Stumbo, Thomas, Van Horn, White, Williams, Yates. Nays 33-Allen, Burnette, Clapp, Craddock, Curd, Dawahare, Ellington, Farrow, Ford, Fryman, Gedling, Gray, Head, Heleringer, Layman, Lefevers, Maggard, McNutt, Moberly, Moore, Morris, Noland, Overstreet, Patrick, Pearman, Rapier, P. Richardson, Robinson, Seum, Stone, Todd, Turner, Worthington.

HB 568 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 568** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 79** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 5:04 p.m.)

Orders of the Day (continued)

HR 53, with Committee Title Amendment and Floor Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Committee Title Amendment to **HR 53.** Agreed.

Representative Williams moved the adoption of **HR 53,** as amended.

HR 53 was adopted by voice vote.

HB 634, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Floor Amendment No. 1 to **HB 634.** Agreed.

Representative LeMaster moved that **HB 634,** as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Heleringer.

HB 634, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 634,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 80** and **HB 127** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate (Time - 5:09 p.m.)

HB 80 and **HB 127** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

SB 120 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **SB 120** be passed.

On the roll call the vote was yeas 47-Bennett, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Craddock, Cyrus, Deskins, Donnermeyer, Dunn, Ford, Freibert, Gray, Guenthner, Harper, Holbrook, Kidd, Layman, Lile, Little, McBee, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rattliff, Riner, Robinson, Seum, Stone, Stumbo, Thomas, Thomason, Van Horn, Williams, Worthington, Yates. Nays 20-Bendl, Dawahare, Ellington, Farrow, Foster, Fryman, Hancock, Heleringer, Holloway, R. Jones, List, Long, Maggard, McElroy, McNutt, Moore, Patrick, Rapier, Todd, Turner.

SB 120 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 120** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 157, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 157**. Agreed.

Speaker Pro Tempore Blanford presiding.

Representative Bendl moved that **HB 157**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 61-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Burch, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Freibert, Gray, Hancock, Head, Heleringer, Holbrook, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Perkins, Petty, Priddy, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Yates. Nays 24-Allen, Burnette, Caldwell, Clapp, Crupper, Curd, Ellington, Endicott, Ford, Fryman, Guenthner, Harper, Layman, Maggard, Noland, Patrick, Pearman, Rapier, Rattliff, Reinhardt, Richards, Robinson, Todd, Turner.

HB 157, by way of Committee Substitute, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 157**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 461, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of the members elected.

Representative Van Horn moved that **HB 461** be passed.

Representative Endicott moved the adoption of the Committee Amendment No. 1 to **HB 461**.

Speaker Richardson resumed the Chair.

Representative Endicott moved the adoption of the Committee Amendment No. 1 to **HB 461**. Rejected.

Representative Robinson moved that **HB 461** be laid on the Clerk's desk. Rejected.

Representative Nett moved that the vote on Committee Amendment No. 1 to **HB 461** be reconsidered.

On the roll call the vote was yeas 51-Allen, Bronger, Caldwell, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, Layman, Lefevers, Lile, List, Long, Maggard, Mann, McBee, McNutt, Moore, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Rapier, Rattliff, Reinhardt, Richards, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner. Nays 23-Bendl, Bennett, Blevins, Bruce, Burch, L. Clark, P. Clark, Dawahare, Deskins, Dunn, Gray, Kenton, Little, Perkins, Petty, Priddy, Stumbo, Thomas, Van Horn, White, Williams, Worthington, Yates.

The motion that the vote on Committee Amendment No. 1 to **HB 461** be reconsidered was adopted.

Representative Nett moved the adoption of the Committee Amendment No. 1 to **HB 461**.

On the roll call the vote was yeas 52-Allen, Brinkley, Bronger, Brown, Burnette, Caldwell, Clarke, Craddock, Crupper, Curd, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Harper, Head, Heleringer, Holbrook, Holloway, R. Jones, Layman, Lefevers, Lile, List, Long, Maggard, McBee, McNutt, Moore, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, B. Smith, Stone, Thomason, Todd, Turner. Nays 30-Bendl, Bennett, Blandford, Blevins, Bruce, Burch, L. Clark, P. Clark, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Gray, Hancock, Little, Lundergan, Mann, Meyer, Moberly, Morris, Perkins, Petty, Priddy, Stumbo, Thomas, Van Horn, White, Williams, Yates.

The Committee Amendment No. 1 to **HB 461** was adopted.

Representative Nett moved that **HB 461,** as amended, be passed.

On the roll call the vote was yeas 76-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ford, Farrow, Foster, Gedling, Gray, Guenthner, Hancock, Harper, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Priddy, Rapier, Rattliff, Richards, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 18-Burch, Deskins, Ellington, Endicott, Freibert, Fryman, Head, Lefevers, Lile, Moore, Noland, Overstreet, Patrick, Petty, Reinhardt, Robinson, Thomas, Todd.

HB 461, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 461,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 524, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Substitute to **HB 524.** Agreed.

Representative Little moved that **HB 524,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 78-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Head, Heleringer, Holbrook, Johnson, Kenton, Kidd, LeMaster, Lile, List, Little, Long, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 10-Allen, Barrows, Caldwell, Hancock, Harper, Lefevers, Mann, Patrick, Reinhardt, Turner.

HB 524, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 524,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 298, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 298.** Agreed.

Representative Little moved that **HB 298,** by way of Committee Substitute, as amended, be passed.

On the roll call the vote was yeas 73-Arnold, Bendl, Blandford, Brinkley, Bronger, Brown, Bruce, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Gedling, Gray, Guenthner, Head, Heleringer, Johnson, R. Jones, Kenton, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Van Horn, White, Williams, Yates. Nays 15-Allen, Bennett, Burch, Caldwell, Ford, Fryman, Hancock, Holbrook, Holloway, Layman, Little, Mann, Patrick, Thomas, Turner.

HB 298, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 298**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Endicott moved the adoption of the following Legislative Citations No. 64, 65, and 66. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the Inez Volunteer Fire Department of Martin County, for your indispensable and outstanding service to public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and unsacrificial service to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Tomahawk Volunteer Fire Department of Martin County, for your indispensable and outstanding service to public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and unsacrificial service to all mankind. (Sponsored by Representative Endicott)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Warfield Volunteer Fire Department of Martin County, for your indispensable and outstanding service to public welfare. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training and modern equipment demonstrate your dedication and humanitarian spirit.

This prestigious body salutes you for your unselfish and unsacrificial service to all mankind. (Sponsored by Representative Endicott)

Representative B. Smith moved that he be recorded as voting "yea" on **SB 79.** Agreed.

Representative Richards moved that a call of the roll be taken to show co-sponsors of **HB 787**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HB 787**: Barrows, Bendl, Brown, Bruce, Caldwell, L. Clark, P. Clark, Craddock, Crupper, Curd, Cyrus, Dawahare, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Head, Holloway, Kenton, Layman, Lefevers, Lile, Little, Maggard, McElroy, McNutt, Moberly, Moore, Morris, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, White, Worthington.

Representative McBee moved the adoption of the following Legislative Citations No. 62 and 63. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the outstanding Boone County Senior High School Football team, the "Rebels", their coach Owen Hauck, and assistant coaches Ralph Wallace, Mike Hibbett, Jay Mulchay, Randy Pierce, and Rick Giardullo for being the Class AAAA State Champtionship Runner Up on November 18, 1983, in Owensboro, Kentucky. Your proud team merits highest acclaim for winning the Regional Championship on November 4, 1983 against Boyd County, winning the Semi-Regional Finals against Clark County on November 11, 1983 and ending the season 11-4. This fine season is a dramatic demonstration of your dedication, hard work, school spirit and personal sacrifice.

This prestigious body salutes you and may many more victories crown your efforts. (Sponsored by Representative McBee)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the outstanding Conner High School Football team, the "Cougars", their coach, Robert E. Lewis, and Assistant coaches Bob Young, John Lucas, Tom Berger and Wayne Badida for winning the AAA State Football Championship game held at the Fair and Exposition Center, Louisville, Kentucky on November 27, 1984, defeating Franklin-Simpson 12-7. Your proud team merits highest acclaim for winning this coveted state recognition. You have bestowed great honor and prestige upon your school and community. Your 13-2 season record is a dramatic demonstration of your dedication, hard work, school spirit and personal sacrifices. This prestigious body salutes you and may many more victories crown your efforts. (Sponsored by Representative McBee)

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 774, by Representative Kenton: AN ACT relating to domestic relations.

HB 775, by Representative Moberly: AN ACT relating to state participation in federal surplus property programs and declaring an emergency.

HB 776, by Representative List: AN ACT relating to volunteer firefighters.

HB 777, by Representative Mann: AN ACT relating to public utilities.

HB 778, by Representative Richards: AN ACT proposing to amend the Constitution of Kentucky relating to the superintendent of public instruction.

HB 779, by Representative Blevins, L. Clark, and Brinkley: AN ACT relating to penalties for violation of fishing and hunting statutes and regulations.

HB 780, by Representatives Holbrook and Johnson: AN ACT relating to appointment of guardians and conservators.

HB 781, by Representatives Yates and Arnold: AN ACT relating to solid waste disposal.

HB 782, by Representative Lundergan: AN ACT relating to work schedules for students.

HB 783, by Representatives Van Horn and Williams: AN ACT relating to higher education.

HB 784, by Representatives Morris, Bruce, White, and Endicott: AN ACT relating to volunteer fire departments.

HB 785, by Representatives Morris and Bruce: AN ACT relating to motor vehicle operator's licenses.

HB 786, by Representatives Lundergan, Morris, Stone, Endicott, White, Stumbo, Bronger, Thomas, Burnette, Moore, Dawahare, Noland, Brinkley, Overstreet, and Rapier: AN ACT relating to revenue and taxation.

HB 787, by Representatives Richards and Maggard: AN ACT relating to the Kentucky Teachers' Retirement System and declaring an emergency.

HB 788, by Representative Caldwell and Patrick: AN ACT relating to income taxes.

HB 789, by Representatives Stumbo, Lundergan, Bronger, Heleringer, Moore, F. Smith, and Perkins: AN ACT relating to motor vehicles.

HB 790, by Representative Moore: AN ACT relating to undergound mines.

HB 791, by Representative Barrows: AN ACT relating to crimes and punishments.

HB 792, by Representative Barrows: AN ACT relating to crimes and punishments.

HB 793, by Representative Barrows: AN ACT relating to parole.

HB 794, by Representative Barrows: AN ACT relating to claims for workers' compensation.

HB 795, by Representative Barrows: AN ACT relating to the membership of district boards of health.

HCR 82, by Representative Mann: A CONCURRENT RESOLUTION requesting the secretary of the cabinet for human resources not to prohibit reimbursement under the Kentucky Medical Assistance Program for prescription drugs prescribed by a licensed physician with certain exceptions.

HCR 83, by Representative Richards: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study and develop recommendations on hearing officers concerning teachers and administrators.

HR 84, by Representatives Blevins, Stumbo, Brinkley, Stone, Maggard, Yates, L. Clark, Perkins, Cyrus, Little, Noe, Moore, and Deskins: A RESOLUTION commending the Coal Information Network of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 698, HJR 75, HR 76, HR 77, HB 746.**

Natural Resources and Environment: **HB 59, HB 247, HB 397, HB 514, HB 522, HB 680, HB 710, HB 647, HB 656, HB 677.**

Banking and Insurance: **HB 721, HB 655, SB 176.**

Energy: **HB 490, HB 619.**

Agriculture and Small Business: **HB 642, SB 7.**

Motions, Petitions, and Communications (continued)

Representative List moved that **HB 699** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Thomason moved that he be recorded as voting "yea" on **HB 568.** Agreed.

Representative Caldwell moved that the rules be suspended to allow him to withdraw his name as a co-sponsor of **HR 75, HR 76,** and **HR 77.** Agreed.

The following Floor Amendments were filed to Bills:

Floor Amendment No. 3 to **HB 20,** by Representative Holbrook:

Amend printed copy of Committee Substitute to **HB 20** on page 1, line 8 after "*following*" by inserting "*acts with such frequency as to indicate a general business practice*";

On page 4, line 8 by placing brackets around and striking through ".";

On page 4, line 8 after "law" by inserting "*; or*";

On page 4, after line 8 and before line 9 by inserting "*(e) Has committed any unfair claims settlement practice as defined in subtitle 12 or regulations promulgated thereunder.*"

On page 5, line 8 by deleting "*; or*";

On page 5, by deleting lines 9, 10 in their entirety; and

On Page 5, line 11 by deleting "*thereunder.*"

Floor Amendment No. 1 to **HB 93,** by Representative LeMaster:

Amend printed copy of **HB 93** on page 5, line 4, by inserting the words "*tar sands*" after the word zinc.

Floor Amendment No. 2 to **HB 366,** by Representative Gray:

Amend printed copy of **HB 366** on page 2, line 19 and 20, by deleting the following: "*This section shall not apply to those construction contracts let prior to July 15, 1984.*"

Floor Amendment No. 2 to **HB 418,** by Representative Donnermeyer:

Amend printed copy of **HB 418** on page 2, following line 13, by adding the following new section:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not apply to the procedure of amniocentesis."

Floor Title Amendment to **HB 484,** by Representative Heleringer:

Amend printed copy of **HB 484,** the title, to delete "court districts" and to insert in lieu thereof "the Supreme Court."

Floor Amendment No. 2 to **HB 484,** by Representative Heleringer:

Amend printed copy of **HB 484** on page 2, below line 10, to add the following:

"Section 2. KRS 21A.160 is amended to read as follows:

(1) Subject to the limitations of subsection (2), the Supreme Court has the power to provide for the organization, government and membership of the state bar of Kentucky and to adopt rules and regulations to govern conduct and activity of the state bar and its members.

(2) Membership in the Kentucky bar association shall be voluntary and the Supreme Court shall not have the power to require membership therein as a requisite to licensure as an attorney at law or admission to the bar."

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, February 28, 1984.

On the roll call the vote was yeas 69-Arnold, Barrows, Bendl, Bennett, Brinkley, Bronger, Bruce, Burch, Caldwell, P. Clark, Clarke, Cowan, Craddock, Crupper, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Head, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams. Nays 6-Endicott, Heleringer, Holloway, Maggard, Moore, Perkins.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 28, 1984

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Speaker Richardson.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Overstreet moved that the reading of the Journal of February 27, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 191, SB 201, SB 240, SB 245, SB 256, SB 259, SB 265, SB 270, HB 42** with Senate Amendment, **HB 268, HB 440, HB 470, HJR 3,** and **HCR 21.**

Introduction of Bills and Resolutions

HB 796, by Representative Farrow: AN ACT relating to guardians, conservators and mentally disabled persons.

HB 797, by Representative Cyrus: AN ACT relating to county police forces.

HB 798, by Representatives McNutt, McElroy, and Brinkley: AN ACT relating to broadcast rights to state universities' athletic events.

HB 799, by Representative White: AN ACT relating to teachers retirement.

HB 800, by Representatives Arnold and Farrow: AN ACT relating to jails.

HB 801, by Representatives Arnold, Cline, Gedling, and Pearman: AN ACT relating to motor vehicle taxes and fees.

HB 802, by Representatives Van Horn, Gray, Brown, Brinkley, and Guenthner: AN ACT relating to the designation of the coon hound as the official state dog of the Commonwealth of Kentucky.

HB 803, by Representative Rattliff: AN ACT relating to retirement.

HB 804, by Representative Richards: AN ACT relating to military service credit.

HB 805, by Representative Lundergan: AN ACT relating to the auditor of public accounts.

HR 85, by Representatives LeMaster, B. Richardson, Donnermeyer, Blandford, and Dunn: A RESOLUTION adopting permanent rules of the House of Representatives.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 786, HB 765, HB 788, SB 261, SB 219.**

Banking and Insurance: **SB 148.**

Business Organizations and Professions: **SB 215**.

Cities: **HB 768, HB 776, SB 232**.

Counties and Special Districts: **HB 764, HB 781**.

Education: **HB 766, HB 769, HB 771, HB 775, HB 783, HB 787, HCR 83, SB 208, SB 269**.

Energy: **HB 777**.

Health and Welfare: **HB 772, HCR 82, HB 795**.

Judiciary-Civil: **HB 774, HB 780, SB 17**.

Judiciary-Criminal: **HB 773, HB 791, HB 793, HB 792**.

Labor and Industry: **HB 770, HB 782, HB 794**.

Natural Resources and Environment: **HB 779, HB 790**.

State Government: **HB 763, HB 778, HB 784, HJR 81**.

Transportation: **HB 767, HB 785, HB 789, SB 67, SB 263, SB 257**.

Posting of Bills and Resolutions for Consideration for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **SB 190**.

Counties and Special Districts: **HB 751**.

Report of Committees

The Committee on Rules reported **HB 139, HB 330, HB 569, HB 589, SB 121**, and **HB 484** have been posted for passage in Orders of the Day, February 29, 1984.

The Committee on Rules reported the following Bills have been recommitted:

To the Committee on Appropriations and Revenue: **HB 165, HB 89, HB 281**.

The Committee on Appropriations and Revenue reported **HB 26** with Committee Substitute attached thereto, **HB 51** with Committee Amendments attached thereto, and **HB 69** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 51** is as follows:

Amend printed copy of **HB 51**, on page 22, after line 19, by inserting the following:

SECTION 19. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

All expenses incurred by the corporation in carrying out the provisions of this Act shall be paid from revenue bonds or notes issued by the corporation.

On page 22, line 20, by renumbering "Section 19" to "Section 20".

The Committee Amendment No. 2 to **HB 51** is as follows:

Amend printed copy of **HB 51**, commencing on page 5, line 6, by deleting Section 3 in its entirety and inserting in lieu thereof the following:

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established the Kentucky agricultural finance corporation.

(2) The corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people through the promotion of agriculture through the Commonwealth.

(3) The corporation shall be governed by a board of directors consisting of eleven (11) members appointed by the governor, three (3) of whom may be ex officio members of the board as follows:

(a) The commissioner or his designee;

(b) The secretary, finance and administration cabinet, or his designee; and

(c) The lieutenant governor or his designee.

(4) The governor may appoint eight (8) private members of the board to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, four (4) may continue in office for terms of one (1) year, two (2) for terms of two (2) years, one (1) for a term of three (3) years and one (1) for a term of four (4) years respectively, as the governor may designate; at the expiration of said original terms and for all succeeding terms, the governor may appoint a successor to the board for a term of four (4) years in each case. Of the initial eight (8) private members of the board appointed by the governor, one (1) may be an officer from a commercial lending institution, one (1) may be an officer from a farm credit association, one (1) may be an agricultural economist, one (1) may be a tobacco farmer, one (1) may be a cash grain farmer, one (1) may be a livestock farmer, one (1) may be a dairy farmer, and one (1) may be from the equine industry.

(5) Upon the expiration of the initial terms of the private members of the board, the governor may appoint successors representing the same constituencies as the members succeeded for a term of four (4) years in each case. In the case of a vacancy, the governor may appoint a successor to hold office during the remainder of the term.

(6) The board of directors shall annually elect one (1) of its members as chairman and one (1) of its members as vice-chairman and shall also elect or appoint, and prescribe the duties of, such other officers as the board deems necessary or advisable, including, but not limited to, an executive director, secretary and legal counsel, and shall fix the compensation therefor.

(7) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely on such certifications.

(8) A majority of the board shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies; provided, however, that a majority of the board may elect from among its members an executive committee to act in its stead in the day to day conduct of the business of the corporation. Notwithstanding the foregoing, the full board shall hold at least one (1) meeting each calendar quarter in accordance with a schedule to be established by the board.

(9) Action may be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum exists called upon three (3) days written notice or upon the concurrence of at least six (6) directors or by the board's executive committee.

(10) All members of the board shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties. Each appointed member of the board shall be entitled to a fee of fifty dollars ($50.00) for attendance at each meeting of the board or executive committee.

The Committee on Counties and Special Districts reported **HB 379**, with Committee Amendment attached thereto, and **HB 425** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 379, AN ACT relating to fire district taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.040 is amended to read as follows:

(1) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031 the trustees of such district are hereby authorized to establish and operate a fire department in such district and to levy a tax upon the property in said district, including that property within cities in a fire protection district or a volunteer fire department district, as provided by KRS 75.010 (2) provided that said property is subject to county tax, and not exceeding ten cents (10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of such establishment, maintenance and operation of said fire department or to make contracts for fire protection for such districts as provided in KRS 75.050. *The trustees of the district shall not levy a tax on property which has been valued for tax purposes at the agricultural or horticultural value pursuant to KRS 132.450.* The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the department of revenue.

(3) Such taxes shall be subject to the same delinquency date, discounts, penalties and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

The Committee Amendment No. 1 to **HB 379** is as follows:

Amend printed copy of **HB 379,** on page 1, line 17, by deleting "*The trustees of the district*";

And on page 1, line 18, by deleting "*shall not levy a tax on*";

And on page 1, line 20, by inserting after "*KRS 132.450*" the following: "*shall be taxed at twenty-five percent (25%) of the rate applied to other property in the district*";

And on page 1, line 20, by inserting before the word "rate" the word "*rates*";

And on page 1, line 20, by enclosing the word "rate" in brackets and by striking through the word "rate".

HB 425, AN ACT relating to the local correctional facilities construction authority, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.615 is amended to read as follows:

(1) There is created and established within the department of finance a Kentucky local correctional facilities construction authority, composed of *ten (10)* [~~nine (9)~~] members who shall be:

(a) The secretary of finance, or his designee;
(b) The secretary of corrections, or his designee;
(c) The president of the Kentucky Jailers Association, *or his designee*;
(d) The president of the Kentucky County Judges/Executive Association, *or his designee*;
(e) The president of the Kentucky Association of Counties, *or his designee*;
(f) *The president of the Kentucky Magistrates/County Commissioners Association, or his designee;*
(g) Two (2) citizen members appointed by the governor; and
(h)[~~(g)~~] Two (2) members of the general assembly appointed by the chairmen of the legislative research commission.

(2) The secretary of finance, the secretary of corrections and the presidents of the Kentucky Jailers Association, Kentucky County Judges/Executive Association and the Kentucky Association of Counties, *Kentucky Magistrates/County Commissioners Association,* and their successors shall serve for the term of their respective office. The legislative members of the authority shall serve at the pleasure of the chairmen of the legislative research commission.

(3) Citizen members shall begin their terms on August 1, 1982, and shall be appointed for a term of

four (4) years; however, in making initial appointments, the governor shall appoint one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years.

(4) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.

(5) The *ten (10)* [~~nine (9)~~] members of this authority and their successors are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth, with perpetual succession and with power in that name to contract and be contracted with, to acquire and convey property, to sue and be sued, to have and use a corporate seal, and to exercise all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(6) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and function as members of this authority.

(7) The chairman of the authority shall be the secretary of finance. The members of the authority shall elect a vice-chairman and secretary from their membership.

(8) The secretary of finance shall designate an employe of his department to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, the premium therefor to be paid by the Commonwealth.

(9) The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection. The department of finance is directed and authorized to provide such funds, staff assistants, facilities and materials as may be required by the authority in the conduct of its duties and functions. The secretary of finance may require the bureau of corrections to share in the expenses incurred by the department of finance in maintaining and operating offices of the authority.

Section 2. KRS 441.620 is amended to read as follows:

(1) If any of the officers of the authority whose signatures or facsimiles thereof appear on any bonds of the authority, or on any interest coupons appurtenant thereto, or on any other instruments or documents pertaining to the functions of the authority, shall cease to be such officers before delivery of the bonds, or before the effective date or occasion of such instruments or documents, the signatures, and facsimiles thereof, shall nevertheless be valid for all purposes the same as if the officers had remained in office until such delivery or effective date or occasion.

(2) Any *six (6)* [~~five (5)~~] members of the authority shall constitute a quorum.

(3) The authority shall meet not less than every six (6) months beginning no later than sixty (60) days after KRS 441.605 to 441.695 shall become effective, and at such other times as it may be called as provided in this section. Special meetings of the authority may be called by the chairman, and upon written request of two (2) members the chairman shall call a special meeting of the authority to be held not later than twenty (20) days following receipt of the written request. The chairman shall give notice through the secretary by certified mail, return receipt requested, to each member of the authority at least ten (10) days prior to the time of any meeting, unless all members of the authority waive notice in writing. The offices of the authority shall be at the seat of state government.

(4) The authority may adopt bylaws relating to its organization and internal management, and may alter the same at will. Through its bylaws, or by resolution, it shall establish stated times and places for regular meetings; and may adjourn the same from time to time. If a quorum be present at any special meeting, and it shall appear from the minutes that reasonable notice was given to absent members, or waived by them, or the minutes subsequently consented to by them, any business transacted or action taken thereat shall be as fully regular and official as if transacted or taken at a regular meeting or an adjournment thereof.

(5) The authority may adopt rules and regulations for the conducting of its business and affairs, subject to the provisions of KRS Chapter 13.

Section 3. Whereas, the local correctional facilities construction authority will make decisions respecting the funding of county jails construction projects before July 1, 1984; and whereas, voting representation by county magistrates and county commissioners in making these decisions is deemed essential and appropriate, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Labor and Industry reported **HB 124,** with Committee Amendments attached thereto, with the expression of opinion that the same should not pass.

HB 124, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The general assembly recognizes that a motor vehicle is a major consumer purchase, and there is no doubt that a defective motor vehicle creates a hardship for the consumer. The general assembly further recognizes that a duly franchised motor vehicle dealer is an agent of the manufacturer. It is the intent of the general assembly that a good faith motor vehicle warranty complaint by a consumer should be resolved by the manufacturer, or its agent, within a specified period of time. It is further the intent of the general assembly to provide the statutory procedures whereby a consumer may receive a replacement motor vehicle, or a full refund, for a motor vehicle which cannot be brought into conformity with the express warranty issued by the manufacturer. However, nothing in this Act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following terms shall have the following meanings:

(1) "Consumer" means the purchaser, other than for purposes of resale, of a motor vehicle, primarily used for personal, family, or household purposes, and any person to whom such motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to such motor vehicle, and any other person entitled by the terms of such warranty to enforce the obligations of the warranty.

(2) "Motor vehicle" means a motor vehicle which is sold in this state and is operated over the public streets and highways of this state and is used as a means of transporting persons or property. Motor vehicle as defined in this Act shall include only those vehicles propelled by power other than muscular power, but the term shall not include vehicles run only upon tracks, off-road vehicles, or mopeds. Motor vehicle shall include demonstrators or lease-purchase vehicles as long as a manufacturer's warranty was issued as a condition of sale.

(3) "Manufacturer" means a manufacturer, importer, distributor or other person covered by KRS 367.860 or KRS Chapter 190.

(4) "Purchase price" means the cash price paid by the consumer for the motor vehicle.

(5) "Express warranty" means any written affirmation of fact or promise made in connection with the sale of a motor vehicle by a supplier to a consumer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect-free or will meet a specified level of performance over a specified period of time. For the purposes of this Act, express warranties do not include implied warranties.

(6) "Collateral charges" means those additional charges to a consumer not directly attributable to the manufacturer's suggested retail price label for the motor vehicle. For the purposes of this Act, collateral charges shall include, but not be limited to, dealer preparation charges, undercoating charges, transportation charges, towing charges, replacement car rental costs, and title charges.

(7) "Comparable motor vehicle" means an identical or reasonably equivalent motor vehicle.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

For the purposes of this Act, if a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the manufacturer, or its agent during the term of such express warranties, or during the period of one (1) year following the date of original delivery of the motor vehicle to the consumer, whichever period expires earlier, the manufacturer, or its agent, shall make such repairs as are necessary to conform the vehicle to such express warranties, notwithstanding the fact that such repairs are made after the expiration of such term or such one (1) year period.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) If the manufacturer, or its agent, cannot conform the motor vehicle to any applicable express warranty by repairing or correcting any default or condition which impairs the use, market value, or safety of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall give the consumer the option of having the manufacturer either replace the motor vehicle with a comparable motor vehicle acceptable to the consumer, or take title of the vehicle from the consumer and refund to the consumer the full purchase price, including all reasonably incurred collateral charges, less a reasonable allowance for the consumer's use of the vehicle. The subtraction of a reasonable allowance for use shall apply when either a replacement or refund of the motor vehicle occurs. A reasonable allowance for use shall be that sum of money arrived at by multiplying the number of miles the motor vehicle has been driven by the consumer by twenty cents (20) per mile. It shall be presumed that six (6) or more minor defects, which although taken separately do not impair the use, or the value, or safety of the motor vehicle, do impair the market value and use of the motor vehicle.

(2) Refunds shall be made to the consumer and lienholder of record, if any, as their interests may appear.

(3) It shall be an affirmative defense to any claim under this Act that:

(a) An alleged nonconformity does not impair the use, market value, or safety of the motor vehicle;

(b) A nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by a consumer;

(c) A claim by a consumer was not filed in good faith; or

(d) Any other affirmative defense allowed by law.

(4) It shall be presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if within the terms, conditions, or limitations of the express warranty, or during the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever expires earlier, either:

(a) Substantially the same nonconformity has been subject to repair three (3) or more times by the manufacturer, or its agents, and such nonconformity continues to exist; or

(b) The vehicle is out of service by reason of repair of the nonconformity by the manufacturer, or its agents, for a cumulative total of fifteen (15) or more working days, exclusive of down time for routine maintenance as prescribed by the owner's manual, since delivery of the vehicle to the consumer. The fifteen (15) day period may be extended by any period of time during which repair services are not available to the consumer because of conditions beyond the control of the manufacturer or its agents.

1. The terms, conditions, or limitations of the express warranty, or the period of one (1) year following the date of original delivery of the motor vehicle to a consumer, whichever expires earlier, may be extended if the motor vehicle warranty problem has been reported but has not been repaired by the manufacturer, or its agent, by the expiration of the applicable time period.

2. The manufacturer shall provide a list of the manufacturer's zone or regional service office addresses in the owner's manual provided with the motor vehicle. It shall be the responsibility of the consumer, or his representative, prior to availing himself of the provisions of this section, to give written notification to the manufacturer of the need for the repair of the nonconformity, in order to allow the manufacturer an opportunity to cure the alleged defect. The manufacturer shall immediately notify the consumer of a reasonably accessible repair facility to conform the vehicle to the express warranty. After delivery of the vehicle to the designated repair facility by the consumer, the manufacturer shall have ten (10) working days to conform the motor vehicle to the express warranty. Upon notification from the consumer that the vehicle has not been conformed to the express warranty, the manufacturer shall inform the consumer if an informal dispute settlement procedure has been established by the manufacturer in accordance with Section 6 of this Act, and provide the consumer with a copy of the provisions of this Act. However, if prior notice by the manufacturer of an informal dispute settlement procedure has been given, no further notice is required. If the manufacturer fails to notify the consumer of the availability of this informal dispute settlement procedure, the requirements of Section 6 of this Act shall not apply.

(5) Any action brought under this Act shall be commenced within six (6) months following expiration of the terms, conditions, or limitations of the express warranty, or within eighteen (18) months following the date of original delivery of the motor vehicle to a consumer, whichever is earlier, or, in the event that a consumer resorts to an informal dispute settlement procedure as provided in this Act, within ninety (90) days following the final action of the panel.

(6) If a consumer finally prevails in any action brought under this Act, he shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including reasonable attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any claim by a consumer which is found by the court to have been filed in bad faith, or solely for the purpose of harassment, or in complete absence of a justifiable issue of either law or fact raised by the consumer, shall result in the consumer being liable for all costs and reasonable attorney's fees incurred by the manufacturer, or its agent, as a direct result of the bad faith claim.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

If a manufacturer has established an informal dispute settlement procedure which complies in all respects with the provisions of 16 C.F.R. part 703, and KRS 367.860 to 367.870, the provisions of Section 4 of this Act concerning refunds or replacements shall not apply to any consumer who has not first resorted to such procedure. For the purposes of this section, at least one (1) member of the informal dispute settlement panel shall be designated by the attorney general.

The Committee Amendment No. 1 to **HB 124** is as follows:

Amend printed copy of **HB 124,** on page 9, after line 6, by adding the following sections:

"Section 7. KRS 367.865 is amended to read as follows:

(1) Effective January 1, 1983, each motor vehicle manufacturer shall offer to the buyer a comprehensive informal dispute resolution system. By transacting business in the Commonwealth of Kentucky, each manufacturer is deemed to have voluntarily consented to participate in the system. Each system shall operate pursuant to written rules and procedures which:

(a) Ensure that the system is impartial, accessible to the buyer, and expeditious, and shall operate at no cost to the buyer;

(b) Provide that if the buyer elects to submit the dispute to the system, the manufacturer shall not refuse to submit the dispute to the system as long as the subject of the dispute occurred during the first two (2) years or twenty-five thousand (25,000) miles, whichever occurs first, of the buyer's ownership of the motor vehicle involved in the dispute;

(c) Provide that the system shall provide for an oral hearing, unless the buyer agrees in writing that the system shall render a decision based solely on documents submitted to it;

(d) Shall include, but is not limited to, procedures for informing the buyer of the existence of the system, preparing the agreement between the buyer and the manufacturer whereby the dispute may be submitted to the system, selecting the members of the decision-making panel, notifying the parties of the complaint, investigating the complaint, providing for hearings, rendering a fair and expeditious decision, and informing parties of the decision.

(2) The decision of the system shall be legally binding on the *manufacturer* [~~parties~~]. *The decision of the system shall not be legally binding on the buyer, unless the manufacturer elects to have its system binding on all buyers who summit their disputes to the system. If the system is to be binding to both parties,* the written agreement between the buyer and the manufacturer whereby the dispute is submitted to the system shall include in conspicuous, bold-faced type the following statement:

> "YOU SHOULD REMEMBER THAT BY ENTERING INTO THIS AGREEMENT YOU ARE DECIDING TO USE THIS DISPUTE RESOLUTION SYSTEM TO SETTLE YOUR DISPUTE INSTEAD OF GOING TO COURT. AFTER A DECISION BY AN ARBITRATOR, NORMALLY A COURT WILL REFUSE TO HEAR THE FACTS IN A CASE IN ALL BUT THE MOST UNUSUAL SITUATIONS. YOUR SIGNATURE IS REQUIRED IMMEDIATELY BELOW TO INDICATE THAT YOU HAVE READ THIS DISCLOSURE.

----------------------------"

SIGNATURE OF BUYER

(3) Before a dispute may be submitted to *a* [~~the~~] system *which is legally binding on both parties,* the buyer shall sign the disclosure statement required by subsection (2) of this section.

(4) Each manufacturer shall take steps reasonably calculated to make the buyer aware of the existence of the system at the time the dispute arises.

(5) Each manufacturer shall take all steps necessary to ensure that the system is sufficiently insulated from the manufacturer so that the decisions of the system are not influenced by the manufacturer. The system's decision-making panel shall be composed of members at least fifty-one percent (51%) of whom have no involvement in the manufacture, distribution or sale of motor vehicles. Nor shall any member deciding a dispute shall be a party to the dispute; nor shall any member deciding a dispute be an employe or agent of a party to the dispute, unless solely for the purpose of impartially deciding disputes.

(6) Nothing herein shall prohibit the manufacturer from participating in a system sponsored or administered by an impartial third party having no direct involvement in the manufacture, distribution, sale, or service of motor vehicles.

(7) Each dispute resolution system shall provide to the office of the attorney general, upon request, the name and address of each buyer whose complaint is resolved through its system. The attorney general shall have the authority to monitor each dispute resolution system as well as review the records on each complaint, upon request. An annual report shall be prepared and published by the office of the attorney general evaluating the performance, effectiveness, and benefits of the system, and shall include in this report recommendations for continuing, modifying, or terminating the requirement of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 367.860 to 367.870, a dispute resolution system which is established pursuant to and in compliance with 16 C.F.R. Part 703 satisfies the requirements of this Act, as long as the dispute resolution system provides each party to the dispute with the right to an oral hearing."

The Committee Amendment No. 2 to **HB 124** is as follows:

Amend printed copy of **HB 124,** on page 2, line 21, after the word "*sale.*" by adding "*However, this*

Act shall not apply to motor homes or motorcycles."

The Committee on Labor and Industry reported **HB 501**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 501, AN ACT relating to the payment of wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

Except for employers who have been doing business in the state for five (5) consecutive years, every employer engaged in construction work, or the severance, preparation, or transportation of minerals, shall furnish on a form prescribed by the commissioner a performance bond to assure the payment of all wages due from the employer. Surety for the bond shall be an amount of money equal to the employer's gross payroll operating at full capacity for four (4) weeks. Any employe whose wages are secured by a bond may obtain payment of those wages, liquidated damages, and attorney's fees as provided by law on presentation to the commissioner of a final judgment entered by a court of competent jurisdiction. The bond may be terminated, with the approval of the commissioner, on submission of the employer's statement, lawfully administered under oath, that the employer has ceased doing business in the state and that all due wages have been paid.

The Committee Substitute to **HB 501** is as follows:

HB 501, AN ACT relating to the payment of wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) Except for employers who have been doing business in the state for two (2) consecutive years, every employer engaged in construction work, or the severance, preparation, or transportation of minerals, shall furnish on a form prescribed by the commissioner a performance bond to assure the payment of all wages due from the employer. Surety for the bond shall be an amount of money equal to the employer's gross payroll operating at highest capacity for four (4) weeks. Any employe whose wages are secured by a bond may obtain payment of those wages, liquidated damages, and attorney's fees as provided by law on presentation to the commissioner of a final judgment entered by a court of competent jurisdiction. The bond may be terminated, with the approval of the commissioner, on submission of the employer's statement, lawfully administered under oath, that the employer has ceased doing business in the state and that all due wages have been paid.

(2) This Act does not apply to joint ventures between employers who have been doing business in this state for at least two (2) consecutive years.

The Committee on Counties and Special Districts reported **HB 310**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 310, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) By April 15 of each year, the county judge/executive, county treasurer and jailer shall prepare and submit to the fiscal court a proposed line item jail budget and an estimate of revenues for jail operations from federal, state and local sources. The proposed jail budget and estimate of revenues shall be included in

the proposed county budget and investigated by the fiscal court as provided in KRS 68.240.

(2) The state local finance officer shall supervise and direct the form and classifications of the line item jail budget and estimate of jail revenues.

(3) The fiscal court shall appropriate sufficient funds to the jail budget to permit compliance with state law on jail operations, including any regulations adopted pursuant to KRS 441.011.

(4) The fiscal court shall consult with the jailer prior to any amendment of the jail budget. The fiscal court shall possess sole authority to transfer funds between line items.

(5) If, in the opinion of the jailer, the jail budget as proposed or as amended by the fiscal court, fails to adequately provide for the safe and secure operation of the jail or the care of prisoners, the jailer shall submit a written statement of such concerns along with any available documentation, to the fiscal court and to the corrections cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, the jailer shall have sole authority to authorize expenditures from the jail budget. Such expenditures shall only be made in accordance with the line item jail budget duly adopted or amended by the fiscal court and the established purchase order procedure of the county. In the event that no established purchase order procedure exists in a county, the jailer shall, subject to the written approval of the state local finance officer, adopt a purchase order procedure.

(2) The jailer shall submit weekly time reports for all full-time and part-time jail personnel and employes to the county treasurer. The county treasurer shall review and pay such claims in accordance with policies and procedures for the payment of other county employes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

All state funds paid to a county, any funds paid to a county by the United States government, a city or another county for the incarceration of prisoners shall be expended on the incarceration of prisoners, as provided in KRS 441.006 within twelve (12) months of the close of the fiscal year in which such funds were received.

Section 4. KRS 441.008 is amended to read as follows:

(1) [~~KRS 64.345 and 64.350 notwithstanding, by July 1, 1982, and by May 1 of each year thereafter, the fiscal court in consultation with the jailer shall adopt an operating budget for the jail which shall provide for the expenditure of all state, county and other funds for jail operations.~~

~~(2)~~] The county treasurer shall [~~disburse jail operating funds at the direction of the jailer, provided the expenditures are within authorized budget categories, and shall~~] keep books of accounts of all receipts and disbursements *from the jail budget* and make such reports as are required by the state local finance officer.

(2) The county treasurer, in cooperation with the jailer, shall monthly report to the fiscal court on:

(a) All purchases from the jail account for the preceding month for final fiscal court approval; and

(b) The current condition of the jail account, including all jail revenues received, expenditures for the month, expenditures for the year-to-date and unexpended balances by line item.

Section 5. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the fiscal court by May 24 of each year.

(2) The fiscal court, at a meeting or meetings held not later than June 1 of each year, shall make a detailed investigation of each separate activity of the county for which the county judge/executive proposes that county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units, including:

(a) General expenses of county government.
(b) Protection to persons and property.
(c) General health and sanitation.
(d) Highways and bridges.
(e) Charities, hospitals, infirmaries and corrections.
(f) Recreational.
(g) New property and improvements.
(h) *Jail operations.*
(i) Interest and debt payments.
(j)[~~(i)~~] Miscellaneous and contingent.

(3) The county budget shall have a fund known as the "sinking fund principal account" and a fund known as the "sinking fund interest account." There shall be allocated annually to the sinking fund principal

account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) The county budget shall include such budget units as may be required by the activities of the county. When necessary, the county budget may be subdivided into separate budget funds so that the cost of each class of expenditures can be ascertained at any time and regulated according to the financial condition and needs of the county.

(5) The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) The fiscal court shall comment upon the proposed budget, and may amend it according to its desires prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250.

The Committee Substitute to **HB 310** is as follows:

HB 310, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) By April 15 of each year, the county judge/executive, county treasurer and jailer shall prepare and submit to the fiscal court a proposed line item jail budget and an estimate of revenues for jail operations from federal, state and local sources. The proposed jail budget and estimate of revenues shall be included in the proposed county budget and investigated by the fiscal court as provided in KRS 68.240.

(2) The state local finance officer shall supervise and direct the form and classifications of the line item jail budget and estimate of jail revenues.

(3) The fiscal court shall consult with the jailer prior to any amendment of the jail budget. The fiscal court shall possess sole authority to transfer funds between line items.

(4) If, in the opinion of the jailer, the jail budget as proposed or as amended by the fiscal court, fails to adequately provide for the safe and secure operation of the jail or the care of prisoners, the jailer shall submit a written statement of such concerns along with any available documentation, to the fiscal court and to the corrections cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) Except for capital improvements, maintenance, utilities and insurance and except as provided in subsection (2) of this section, the jailer shall have authority to authorize expenditures from the jail budget. Such expenditures shall only be made in accordance with the line item jail budget duly adopted or amended by the fiscal court and the established county procurement code or purchase order procedure of the county. Payment for purchases for the jail shall be subject to fiscal court approval prior to payment. The fiscal court shall not withhold approval of payment for jail expenditures which are within the jail budget and not unlawful.

(2) The jailer shall submit, in accordance with county payroll procedures, time reports for all full-time and part-time jail personnel and employes to the county treasurer or other designated payroll official. The county treasurer shall review and pay such claims in accordance with policies and procedures for the payment of other county employes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

All state funds paid to a county, any funds paid to a county by the United States government, a city or another county for the incarceration of prisoners shall be expended on the incarceration of prisoners, as provided in KRS 441.006 within twelve (12) months of the close of the fiscal year in which such funds were received.

Section 4. KRS 441.008 is amended to read as follows:

(1) [~~KRS 64.345 and 64.350 notwithstanding, by July 1, 1982, and by May 1 of each year thereafter, the fiscal court in consultation with the jailer shall adopt an operating budget for the jail which shall provide for the expenditure of all state, county and other funds for jail operations.~~

~~(2)~~] The county treasurer shall [~~disburse jail operating funds at the direction of the jailer, provided the expenditures are within authorized budget categories, and shall~~] keep books of accounts of all receipts and disbursements *from the jail budget* and make such reports as are required by the state local finance officer.

(2) The county treasurer, in cooperation with the jailer, shall monthly report to the fiscal court on:

(a) All purchases from the jail account for the preceding month for final fiscal court approval; and

(b) The current condition of the jail account, including all jail revenues received, expenditures for the month, expenditures for the year-to-date and unexpended balances by line item.

Section 5. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the fiscal court by May 24 of each year.

(2) The fiscal court, at a meeting or meetings held not later than June 1 of each year, shall make a detailed investigation of each separate activity of the county for which the county judge/executive proposes that county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units, including:

(a) General expenses of county government.
(b) Protection to persons and property.
(c) General health and sanitation.
(d) Highways and bridges.
(e) Charities, hospitals, infirmaries and corrections.
(f) Recreational.
(g) New property and improvements.
(h) Jail operations.
(i) Interest and debt payments.
(j)[~~(i)~~] Miscellaneous and contingent.

(3) The county budget shall have a fund known as the "sinking fund principal account" and a fund known as the "sinking fund interest account." There shall be allocated annually to the sinking fund principal account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) The county budget shall include such budget units as may be required by the activities of the county. When necessary, the county budget may be subdivided into separate budget funds so that the cost of each class of expenditures can be ascertained at any time and regulated according to the financial condition and needs of the county.

(5) The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) The fiscal court shall comment upon the proposed budget, and may amend it according to its desires prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250.

Section 6. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the district court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law $32.00

(b) For an offense for which prepayment is not permitted or has not been made $37.00

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation $ .50
(b) Preparing a certification 1.00
(c) Preparing a copy of a document (per page) .25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to a drivers' improvement program as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5.00) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and *the transportation of prisoners and* shall include among his reports to the administrative office of the courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars

($5.00) from each court cost collected pursuant to subsection (1) of this section to the state treasury for the benefit and use of the Kentucky local correctional facilities construction authority pursuant to KRS 441.625 to 441.695.

Section 7. KRS 71.040 is amended to read as follows:

At the time of booking, the jailer shall receive and keep in the jail all persons who are lawfully committed thereto, until they are lawfully discharged, *unless the person is in need of emergency medical attention, in which case the arresting officer shall obtain medical attention for the person prior to delivery to the jail. The jailer* [~~He~~] shall treat them humanely and furnish them with proper food and lodging during their confinement. He shall deliver those who die in jail to their friends, if requested, or have them decently buried at the expense of the county.

Section 8. KRS 441.005 is amended to read as follows:

As used in KRS Chapter 441 unless the context otherwise requires:

(1) "Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any county, city or urban county government.

(2) "Holdover" means any jail housing prisoners for a maximum period of ninety-six (96) continuous hours and excluding such times when a prisoner may be released for in court proceedings or on an order of a circuit or district court.

(3) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason.

(4)[~~(3)~~] "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. In the event of a person imprisoned for contempt of court, the state shall be deemed the responsible unit of government.

(5)[~~(4)~~] "Cabinet" means the corrections cabinet.

(6)[~~(5)~~] "Jail personnel" means deputy jailers, matrons, cooks and other food service personnel and other jail employes involved in the supervision, custody, care or treatment of prisoners in jails but does not include maintenance or clerical personnel.

SECTION 9. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court of each county shall provide for the transportation of prisoners as necessary from the jail budget. All vehicles used for the purpose of transporting prisoners shall be equipped with security screens and two-way radios.

(2) The fiscal court shall not be required to provide for the transportation of prisoners on work release.

(3) The fiscal court shall not be responsible for providing transportation to prisoners being held out of the county at the time of their release.

Section 10. KRS 441.500 is amended to read as follows:

(1) If an accused is confined in a detention facility, he shall be transported as necessary in accordance with the following provisions, unless otherwise ordered by the court:

(a) If he is lodged in a city jail in the county where the trial is to be held, the city police shall carry out this duty.

(b) If he is lodged in an urban-county facility in the county where the trial is to be held, the jailer shall carry out this duty.

(c) *Except as provided in subsection (3) of this section,* in all other cases the sheriff of the county where the prisoner is incarcerated shall carry out this duty.

(2) If an accused is sentenced to confinement, the sheriff shall deliver him to the proper detention facility, with these exceptions:

(a) If he is sentenced to a facility which is operated by a city within the county where the trial is held, the city police shall deliver him to the proper facility.

(b) In the case of a sentence to an urban-county detention facility, the jailer shall carry out this duty.

(3) In any county where there is no jail or the county operates a holdover jail, the fiscal court shall adopt a transportation plan which establishes the party responsible for transporting prisoners as necessary:

(a) The fiscal court may require the jailer to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(b) The fiscal court may require the sheriff to serve as transportation officer to be responsible for transporting prisoners as necessary; or

(c) The fiscal court may adopt any reasonable transportation plan so long as the party responsible for transporting prisoners is specified.

(4) In any county where there is no jail and the jailer does not transport prisoners, the jailer shall

serve as a bailiff to the circuit and district courts of the county as provided for in KRS 71.050. The fiscal court may also require the jailer to serve as superintendent of county buildings and grounds as provided for in KRS 67.130. [~~In the event that a county contracts with another county for the incarceration of its prisoners, the jailer of the county where the trial is to be held shall be responsible for transporting prisoners to and from the county where prisoners are incarcerated, except as otherwise agreed by contract. Any expense of such transportation shall be paid from the jail operating budget as provided in KRS 441.007 and 441.008.~~]

Section 11. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;

(b) Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

(c) Regulate and control the fiscal affairs of the county;

(d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, and have the accounts of all county officers audited, when necessary; employ a competent person to keep such accounts and records, and make such audits, and pay such person a reasonable compensation for such services;

(e) Exercise all the corporate powers of the county unless otherwise provided by law;

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices;

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 through 68.360, for purposes required by law;

(b) As needed, cause the construction, operation and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county;

(d) Provide for the incarceration of prisoners according to the provisions of KRS *Chapter 441* [~~441.006~~].

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

Section 12. KRS 71.050 is amended to read as follows:

The jailer is an officer of the circuit and district courts for his county. *In any county where there is no jail and the jailer does not transport prisoners, the jailer shall serve as a bailiff to the circuit and district courts of the county.*

Section 13. KRS 441.006 is amended to read as follows:

(1) The fiscal court of each county shall provide for the incarceration of prisoners arrested in the county or sentenced or held by order of the courts in the county.

(2) The fiscal court shall provide for the incarceration of prisoners by:

(a) Providing and maintaining a jail in the county; or

(b) Contracting with another county or a city for the incarceration and care of its prisoners*; and*

(c) Providing for the transportation of prisoners, *as provided for in Sections 9 and 10 of this Act* including the provision of vehicles, drivers and guards.

(3) Nothing in this section shall prohibit a county from providing facilities for holding prisoners for limited periods of time and contracting with another county or a city for longer periods of incarceration.

(4) Any county may enter into an agreement pursuant to KRS 65.210 to 65.300 to provide or to use jail facilities.

Section 14. KRS 441.009 is amended to read as follows:

(1) The jailer shall receive a monthly salary from the county jail operating budget.

(2) In recognition of the increased duties and responsibilities of the office of jailer, jailers holding office on July 1, 1982 shall be entitled to a level of compensation in calendar year 1982 which shall be equal to the compensation of jailer in calendar year 1981 as adjusted for the change in the consumer price index during calendar year 1981 or $12,000, whichever is greater. The fiscal court may establish a higher level of compensation for the jailer, provided, however, that in no event shall the jailer's compensation exceed the maximum compensation allowable for county officials under KRS 64.527. In the event that a jail was closed during calendar year 1981, the secretary of finance may, upon proper documentation by the jailer, direct that a prior calendar year's level of compensation be used as a basis for setting the jailer's compensation pursuant to this section.

(3) The jailer's monthly salary for the period July, 1982 through December, 1982 shall be the jailer's compensation for calendar year 1982 as provided in subsection (2) of this section less the jailer's earnings for

January through June, 1982 divided by six (6).

(4) The jailer's compensation for 1983 and subsequent years shall equal the prior year's compensation and may be adjusted by the fiscal court for the change in the prior year's consumer price index.

[~~(5) If a county jail is closed for any reason, the jailer shall serve as a transportation officer and shall be responsible for transporting prisoners, as provided in KRS 441.500.~~]

The Committee on Health and Welfare reported **HB 492** with Committee Substitute attached thereto, **HCR 18, HJR 58,** and **SB 118** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 492, AN ACT relating to child support.

WHEREAS, growing numbers of parents who are capable of doing so are failing to provide adequate support for their children, thus increasing demands on our courts and on the treasury of the Commonwealth; and

WHEREAS, the current process of obtaining and enforcing child support orders through the judicial system can be lengthy, complicated, costly and, ultimately, ineffective; and

WHEREAS, children whose parents do not provide adequate support for them are supported directly and indirectly through various programs of public assistance paid for at least in part by the Commonwealth of Kentucky, thus adding to the taxpayer's burden and contributing to the potential for welfare dependence in future generations; and

WHEREAS, other states, including our neighbor Virginia, have enacted legislation establishing and providing for the determination and enforcement of child support obligations through administrative process and have found initial expenditures to be repaid many times over, in terms both of child support collected and the avoidance of reliance upon public assistance; and

WHEREAS, the use of administrative process to determine and enforce child support obligations can benefit children, families, taxpayers and the Commonwealth; and

WHEREAS, the use of administrative process and other means of enforcing child support obligations can be construed with regard for the rights of both a child to be supported and a parent to receive due process;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted*:*

(a) To the state*; or*

(b) To a third party for a duty of support as defined in KRS 407.100. Such a debt shall take priority over all other debts, except when the person also is indebted to the state under KRS 205.715, in which case the state and the third party shall share the money in proportion to their interest in it.

(2) The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state such balance shall be paid to him.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

In addition to the procedures for judicial determination and enforcement of support obligations described in KRS 205.710 through 205.800, the cabinet may employ administrative process to determine and enforce support obligations when paternity is not in question, as described in Sections 4 through 17 of this Act.

Section 3. KRS 205.740 is amended to read as follows:

When the parent's support obligation has been determined by court order and the dependent child is receiving public assistance from the department, and the parent is not providing support in the amount due *and the obligation is one (1) month delinquent*, the department may petition the circuit court to order, and the circuit court *shall* [~~may~~] order, the parent to assign to the department that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the amount ordered by a court for the support of the child. Such order shall be binding upon an employer upon the service by certified mail of a copy of the order upon such employer and until further order of the court. The employer may deduct the sum of *one dollar ($1.00)* [~~fifty cents (50)~~] for each payment made pursuant to such order to cover its administrative expenses. Any such order may be modified or revoked at any time by the court upon prior notification by the court to the department. Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court. No assignment under this section by an employe shall constitute grounds for dismissal of the employe.

SECTION 4. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 through 17 of this Act, unless the context requires otherwise:

(1) "Cabinet" means the cabinet for human resources;

(2) "Enforce" means to employ any judicial or administrative remedy under this Act or under any other Kentucky law;

(3) "Parent" means an absent natural or adoptive mother, an absent father of a child born in wedlock or an absent father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state, whose child is entitled to support, pursuant to court order, statute or administrative determination;

(4) "Real and personal" property includes all property of all kinds, including but not limited to, all gain derived from capital, labor or both; compensation paid or payable for personal services regardless of whether it is denominated as wages, salary, commission, bonus or otherwise; periodic payments from pension and retirement programs; unemployment compensation and insurance policies; and

(5) "Secretary" means the secretary of the cabinet for human resources.

SECTION 5. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) When a parent who fails to support his child is not obligated to provide child support by court order, the cabinet may determine the parent's minimum monthly support obligation based on scales and ranges it shall develop by regulation, which shall take into account:

(a) The child's needs;

(b) The parent's gross income;

(c) The parent's assets;

(d) The parent's needs; and

(e) Any other factors the cabinet deems relevant.

(2) The cabinet may modify a parent's minimum monthly support obligation on its own or upon a parent's petition, if the cabinet finds the amount previously set no longer is appropriate under the cabinet's scales.

(3) In establishing a parent's minimum monthly support obligation, the cabinet may utilize information about the parent and child which it has good reason to believe is reliable.

SECTION 6. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

The notice of a minimum monthly support obligation shall be served in person or by certified mail, return receipt requested, and shall include at least the following:

(1) The name of the child for whom the support obligation is owed;

(2) The amount of the support debt accrued or accruing;

(3) A statement that the debtor's property, both real and personal, is subject to judicial and administrative collection remedies;

(4) That he may dispute the obligation amount or any other matter contained in the notice by requesting a dispute hearing within twenty (20) days;

(5) That, unless there is good cause for his failure to request a hearing, if he does not request a hearing, his agreement will be presumed and the first payment will be due as of that date; and

(6) That if he requests a hearing and fails to appear, the hearing officer shall affirm the determination of minimum monthly support obligation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) A hearing officer appointed by the secretary shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing.

(2) The hearing officer's decision, reasons therefor and an explanation of the appeal process shall be served personally or sent by certified mail, return receipt requested, to the parent and the cabinet, no more than thirty (30) days after the hearing. The decision shall establish the parent's liability, if any, for support beginning twenty (20) days from the parent's receipt of the notice of support obligation.

(3) Within twenty (20) days of the parent's receipt of the hearing officer's decision, which shall be personally served or mailed by certified mail, return receipt requested, the parent or the cabinet may file an appeal which shall be heard de novo by the circuit court in the county of the parent's or the child's residence.

(4) Absent a showing of indigency or need exceeding the child's need, the parent shall, during the pendency of his appeal, pay the minimum monthly support obligation to the cabinet, which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.

SECTION 8. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS

FOLLOWS:

(1) When a parent is at least one (1) month delinquent in paying court-ordered or administratively determined child support, the cabinet may use judicial or administrative remedies to enforce the support obligation, unless the parent has initiated an appeal, in which case judicial or administrative remedies may be pursued after the parent's receipt of the final decision of the hearing officer or court.

(2) In cases where the parent has not requested a dispute hearing, action to collect the debt may be taken twenty (20) days after the debtor's receipt of the notice of support obligation or his refusal to accept the notice.

SECTION 9. KRS 405.035 is amended to read as follows:

(1) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child *and the obligation is one (1) month delinquent*, the court *shall* [~~may~~] order either parent or both parents to assign to the domestic relations clerk of the county or other officer designated by the court to receive such payment, that portion of salary or wages of either parent due and to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance and education of the minor child.

(2) Such order shall be binding upon the employer upon the service by certified mail of a copy of such order upon such employer and until further order of the court. The employer may deduct the sum of *one dollar ($1.00)* [~~fifty cents (50)~~] for each payment made pursuant to such order. Any such order may be modified or revoked at any time by the court.

(3) Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(4) [~~, provided, however, that~~] No assignment under this section by an employe shall constitute grounds for dismissal of the employe.

SECTION 10. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) The secretary may collect delinquent child support by issuing an order to withhold and deliver property of any kind, real and personal, which the secretary has reason to believe are due, owing or belonging to the parent.

(2) Fifty percent (50%) of the value of the property shall be exempt and may be delivered to the parent.

(3) The order shall continue to operate until the child support debt is paid in full and shall take priority over all other debts and creditors of such debtor.

SECTION 11. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) An order to withhold and deliver shall be personally served or mailed by certified mail, return receipt requested, on the person in possession or control of the property and the parent.

(2) The order shall state the basis for and the amount of the support debt and that the person in possession or control of the property or the parent may offer a bond to avoid losing possession of the property.

SECTION 12. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been served with an order to withhold and deliver property shall answer the order within twenty (20) days.

(2) A parent may request a dispute hearing in his answer, offer a bond satisfactory to the cabinet or both.

(3) The person in possession of any property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or he may offer a bond which is satisfactory to the cabinet.

(4) The person in possession of property shall have no liability or further responsibility after fulfilling his duties under this section.

SECTION 13. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) When property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending final determination of the parent's liability by a court or a hearing officer.

(2) The deadlines and process for appeal of an order to withhold and deliver property shall be the same as those established in this Act for appeal of a minimum monthly support obligation determined by the cabinet.

SECTION 14. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

Persons holding real or personal property in Kentucky of parents who owe child support shall honor valid orders of other states' courts to enforce child support obligations.

SECTION 15. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS

FOLLOWS:

The cabinet may promulgate regulations to implement the provisions of Sections 4 through 17 of this Act.

SECTION 16. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

A person who violates subsection (3) of Section 12 of this Act shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs and reasonable attorney's fees.

SECTION 17. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

Sections 4 through 17 of this Act may be cited as the "Kentucky Administrative Process for Child Support Act."

The Committee Substitute to **HB 492** is as follows:

HB 492, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

The general assembly of the Commonwealth of Kentucky finds and declares that:

(1) Growing numbers of parents, who are capable of doing so, are failing to provide adequate support for their children, thus increasing demands on our courts and on the treasury of the Commonwealth.

(2) The current process of obtaining and enforcing child support orders through the judicial system can be lengthy, complicated, costly, inefficient and, ultimately, ineffective.

(3) Children whose parents do not provide adequate support for them are supported directly and indirectly through various programs of public assistance paid for at least in part by the Commonwealth of Kentucky, thus adding to the taxpayer's burden and contributing to the potential for welfare dependence in future generations.

(4) Other states, including our neighbor Virginia, have enacted legislation providing for the determination and enforcement of child support obligations through administrative process and have found initial expenditures to be repaid many times over, in terms both of child support collected and the avoidance of reliance upon public assistance.

(5) The use of administrative process to determine and enforce child support obligations can benefit children, families, taxpayers and the Commonwealth.

(6) The use of administrative process and other means of enforcing child support obligations can be construed with regard for the rights of both a child to be supported and a parent to receive due process.

(7) Present remedies for nonsupport in Kentucky should be supplemented by administrative process, including remedies directed at parents' earnings and real and personal property.

Section 2. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted*:*

(a) To the state*; or*

(b) To a third party for a duty of support as defined in KRS 407.100. Such a debt shall take priority over all other debts, except when the person also is indebted to the state under KRS 205.715, in which case the state and the third party shall share the money in proportion to their interest in it.

(2) The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state such balance shall be paid to him.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the procedures for judicial determination and enforcement of support obligations described in KRS 205.710 through 205.800, the cabinet may employ administrative process, as described in Sections 1 and 5 through 18 of this Act, to determine and enforce support obligations when paternity is not in question.

(2) When administrative process is used to determine a minimum monthly support obligation under KRS 205.710 through 205.800, the notice described in Section 7 of this Act shall be served upon the parent within ninety (90) days of the date the state begins paying public assistance to or on behalf of a dependent child. If the notice is not served within ninety (90) days, the cabinet shall lose the right to reimbursement for

payments made after the ninety (90) days and before notification, unless the cabinet has made reasonable attempts to locate a parent, in which case the ninety (90) days is tolled until the parent is located.

Section 4. KRS 205.740 is amended to read as follows:

(1) When the parent's support obligation has been determined by court order and the dependent child is receiving public assistance from the department, and the parent is not providing support in the amount due *and the full obligation is thirty-two (32) days delinquent*, the department may petition the circuit court to order, and, *upon a finding by the circuit court that the full obligation is thirty-two (32) days delinquent*, the circuit court *shall* [~~may~~] order, the parent to assign to the department that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the amount ordered by a court for the support of the child.

(2) Such order shall be binding upon an employer upon the service by certified mail of a copy of the order upon such employer and until further order of the court. The employer may deduct the sum of *one dollar ($1.00)* [~~fifty cents (50)~~] for each payment made pursuant to such order to cover its administrative expenses. [~~Any such order may be modified or revoked at any time by the court upon prior notification by the court to the cabinet.~~]

(3) Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(4) No assignment under this section by an employe shall constitute grounds for dismissal of the employe.

SECTION 5. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 5 through 18 of this Act, unless the context requires otherwise:

(1) "Cabinet" means the cabinet for human resources;

(2) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(3) "Enforce" means to employ any judicial or administrative remedy under under this Act or under any other Kentucky law;

(4) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child; provided that a parent shall be presumed to be unable to pay child support from any income received from aid to families with dependent children (AFDC), supplemental security income (SSI) or other continuing public assistance;

(5) "Parent" means an absent natural or adoptive mother, an absent father of a child born in wedlock or an absent father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute or administrative determination;

(6) "Real and personal" property includes all property of all kinds, including but not limited to, all gain derived from capital, labor or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise; periodic payments from pension and retirement programs; unemployment compensation and insurance policies; and

(7) "Secretary" means the secretary of the cabinet for human resources or his designee.

SECTION 6. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) When a parent who fails to support his child is not obligated to provide child support by court order, the cabinet may determine the parent's minimum monthly support obligation based on scales and ranges it shall develop by regulation, which shall take into account:

(a) The child's needs;
(b) The parent's locality of residence;
(c) The parent's gross income;
(d) The parent's assets;
(e) The parent's needs; and
(f) Any other factors the cabinet deems relevant.

(2) The cabinet may modify a parent's minimum monthly support obligation as established by the cabinet on its own or upon a parent's petition, but only upon a finding of the conditions described in KRS 403.250 for judicial modification of a support order.

(3) In establishing a parent's minimum monthly support obligation, the cabinet may utilize information about the parent and child which it has good reason to believe is reliable.

(4) Copies of the scales shall be made available to the courts, county offices, prosecuting attorneys, and, upon request, to any other state or county office or agency in any way engaged in child support collection and enforcement.

SECTION 7. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

The notice of a minimum monthly support obligation shall be served in person or by certified mail, return receipt requested, and shall include at least the following:

(1) The name of the child for whom the support obligation is owed;

(2) The amount of the support debt accrued or accruing;

(3) A statement that the parent's earnings and property, both real and personal, are subject to judicial and administrative enforcement;

(4) That he may dispute the obligation amount or any other matter contained in the notice by requesting a dispute hearing within twenty (20) days;

(5) That, unless there is good cause as determined by the secretary for his failure to request a hearing, if he does not request a hearing, his agreement will be presumed and the first payment will be due twenty (20) days after receipt of the notice; and

(6) That if he requests a hearing and fails to appear, the hearing officer shall affirm the determination of minimum monthly support obligation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) A hearing officer appointed by the secretary shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing.

(2) The parent's obligation to pay minimum monthly support shall be stayed until his receipt of the hearing officer's decision.

(3) The hearing officer's decision, reasons therefor and an explanation of the appeal process shall be served personally or sent by certified mail, return receipt requested, to the parent and the cabinet, no more than thirty (30) days after the hearing. The decision shall establish the parent's liability, if any, for support.

(4) Within twenty (20) days of the parent's receipt of the hearing officer's decision, which shall be personally served or mailed by certified mail, return receipt requested, the parent or the cabinet may file an appeal which shall be heard de novo by the circuit court in the county of the parent's or the child's residence.

(5) The parent shall, during the pendency of his appeal from the hearing officer's decision, absent a showing of indigency or need exceeding the child's need, pay the minimum monthly support obligation to the cabinet, which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.

SECTION 9. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) When a parent is at least thirty-two (32) days delinquent in paying court-ordered or administratively determined child support, the cabinet may use judicial or administrative remedies to enforce the support obligation without the necessity of any action by a hearing officer.

(2) In cases where the parent has not requested a dispute hearing, action to collect the debt may be taken twenty (20) days after the debtor's receipt of the notice of support obligation or his refusal to accept the notice.

SECTION 10. KRS 405.035 is amended to read as follows:

(1) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child *and the full obligation is thirty-two (32) days delinquent, upon a finding by the court that the full obligation is thirty-two (32) days delinquent*, the court *shall* [~~may~~] order either parent or both parents to assign to the domestic relations clerk of the county or other officer designated by the court to receive such payment, that portion of salary or wages of either parent due and to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance and education of the minor child.

(2) Such order shall be binding upon the employer upon the service by certified mail of a copy of such order upon such employer and until further order of the court. The employer may deduct the sum of *one dollar ($1.00)* [~~fifty cents (50)~~] for each payment made pursuant to such order. [~~Any such order may be modified or revoked at any time by the court.~~]

(3) Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(4) [~~, provided, however, that~~] No assignment under this section by an employe shall constitute grounds for dismissal of the employe.

SECTION 11. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) The secretary may collect delinquent child support by issuing an order to withhold and deliver

earnings or property of any kind, real and personal, which the secretary has reason to believe are due, owing or belonging to the parent.

(2) Fifty percent (50%) of the disposable earnings against which a support debt is asserted shall be exempt and may be delivered to the parent. The only other exemptions allowed shall be those provided in KRS 427.030, 427.040 and 427.060.

(3) The order shall continue to operate until the child support debt is paid in full and shall take priority over all other debts and creditors of such debtor.

SECTION 12. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) An order to withhold and deliver shall be personally served or mailed by certified mail, return receipt requested, on the person in possession or control of the property and the parent.

(2) The order shall state the basis for and the amount of the support debt and that the person in possession or control of the property may offer a bond satisfactory to the cabinet to avoid losing possession of the property.

SECTION 13. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been served with an order to withhold and deliver property shall answer the order within twenty (20) days.

(2) The person in possession of any property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or he may offer a bond which is satisfactory to the cabinet.

(3) The person in possession of property shall have no liability or further responsibility after fulfilling his duties under this section.

(4) When property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending final determination of the parent's liability by a court or a hearing officer.

SECTION 14. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

(1) Whenever Sections 1 and 5 through 18 of this Act require delivery of a notice or other communication in person or by certified mail, return receipt requested, receipt shall be rebuttably presumed if the parent or any other adult with apparent authority at the parent's address signs a receipt or if the parent or other adult refuses to accept the notice or communication.

(2) In the case of a notice to withhold and deliver property served on a person in possession or control of property, receipt shall be rebuttably presumed if the person to whom the order is directed signs or refuses to sign a receipt or if his employe, agent or other adult with apparent authority signs or refuses to sign a receipt.

SECTION 15. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

Persons holding earnings or real or personal property in Kentucky of parents who owe child support shall honor valid orders of other states' courts to enforce child support obligations.

SECTION 16. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

The cabinet may promulgate regulations to implement the provisions of Sections 1 and 5 through 18 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

A person who violates subsection (2) of Section 13 of this Act shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs and reasonable attorney's fees.

SECTION 18. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

Sections 1 and 5 through 18 of this Act may be cited as the "Kentucky Administrative Process for Child Support Act."

HCR 18, A CONCURRENT RESOLUTION directing the Legislative Research Commission, through the Interim Joint Committee on Health and Welfare to study the advisability and feasibility of separation of Mental Health and Mental Retardation delivery services.

WHEREAS, the current system for mental health/mental retardation delivery services was established nearly twenty years ago; and

WHEREAS, since that time, substantial changes have occurred in funding sources, program development, philosophy of service delivery and federal attitude toward mental health/mental retardation services; and

WHEREAS, there is a widespread belief among consumers, their families and provider and agency groups that serious flaws exist in the system's basic design;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed, through the Interim Joint Committee on Health and Welfare, to study the advisability and feasibility of separation of the mental health/mental retardation delivery services.

Section 2. The study should include, but not necessarily be limited to, a comparative study of other state systems, fiscal and programmatic impacts, access of providers to the Cabinet for Human Resources and the effects of elevating mental health and mental retardation administration to a department level in state government.

Section 3. The Interim Joint Committee on Health and Welfare shall report its findings and recommendations to the Legislative Research Commission not later than September 30, 1985.

Section 4. Staff services to be utilized in completing this study are estimated to be $12,000. These services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

HJR 58, A JOINT RESOLUTION directing the Cabinet for Human Resources, in any rules adopted by the cabinet to govern payments to or for needy households for the purchase of home energy, to give first priority for assistance, and the highest benefit levels to households whose essential costs for food, shelter, clothing, energy and medical care exceed income.

WHEREAS, the seventeen million dollars ($17,000,000) in federal funds that were available to Kentuckians this year for the Low-Income Home Energy Assistance Program (LIHEAP) was only sufficient to serve an estimated one-third of the households eligible for the funds; and

WHEREAS, current eligibility rules adopted by the Kentucky Cabinet for Human Resources for LIHEAP do not include consideration of the expenses of a household as well as its income; and

WHEREAS, this year's turnout for applying for the federal funds was so heavy that in both the regular and crisis phases of LIHEAP the applications exhausted the available funds in just forty-eight (48) hours; and

WHEREAS, many families with essential household costs that exceed income failed to receive assistance from LIHEAP this year because the money was obligated so quickly; and

WHEREAS, current state regulations for energy assistance fail to provide the highest level of assistance to those most in need;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That in any rules adopted by the Cabinet for Human Resources to govern payments by the cabinet to or for needy households for the purchase of home energy, first priority for assistance and the highest benefit levels shall be given to households whose essential costs for food, shelter, clothing, energy and medical care exceed income.

SB 118, AN ACT relating to severely physically disabled adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Cabinet" means the cabinet for human resources.

(2) "Evaluation team" means at least three (3) individuals employed as such by a qualified agency or organization.

(3) "Personal care assistance services" means services which are required by a severely physically disabled adult to achieve greater physical independence and which include, but are not limited to:

(a) Routine bodily functions, such as bowel or bladder care;
(b) Dressing;
(c) Housecleaning and laundry;
(d) Preparation and consumption of food;
(e) Moving in and out of bed;
(f) Routine bathing;
(g) Ambulation; and
(h) Any other similar activity of daily living.

(4) "Qualified agency or organization" means an agency or organization whose purpose is to provide services to severely physically handicapped adults to enable them to live as independently as possible and a majority of whose board is consumers of such services.

(5) "Secretary" means the secretary of the cabinet for human resources.

(6) "Severely physically disabled adult" means a person eighteen (18) years of age or older with permanent or temporary, recurring functional loss of two (2) or more limbs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall provide a subsidy for personal care assistance services to any adult who:

(a) Has a severe physical disability;

(b) Needs not less than fourteen (14) hours a week of personal care assistance services as defined by the secretary or needs an attendant at night, which services are necessary to prevent or remove the adult from inappropriate placement in an institutional setting; and

(c) Qualifies under Section 3 of this Act.

(2) The adult shall be responsible for:

(a) Recruiting, hiring, firing and supervising the persons who provide personal care assistance services; and

(b) Obtaining an evaluation of his eligibility for personal care services from a qualified agency or organization which employs evaluation teams to:

1. Determine the eligibility of the adult for personal care assistance services;
2. Reevaluate the adult at least biennially to determine the adult's continuing need for services; and
3. Report its findings and recommendations to the cabinet.

(3) The cabinet shall follow the recommendations of the evaluation team or shall give notice to the adult within twenty (20) days of receipt of the recommendations of its reasons for not acting on the team's recommendations.

(4) The cabinet may maintain a list of qualified agencies and organizations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish by regulation an eligibility standard which takes into consideration the unique economic and social needs of severely physically disabled adults.

(2) The subsidy shall not be considered income for any purpose to the extent permitted by federal law and regulation.

(3) This program may supplement any other programs for which the adult is eligible.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days of any recommendation of any decision by the cabinet, an aggrieved party may appeal. The secretary shall appoint one (1) or more trained hearing officers to hear and decide the appeal.

(2) Any party who is dissatisfied with the decision of the hearing officer may appeal to the appeal board. The board may on its own motion affirm, modify or set aside any decision of a hearing officer on the basis of evidence previously submitted or may direct the taking of additional evidence or may permit any party to initiate further appeals before it. The board shall notify promptly the parties of its findings and decisions.

(3) The manner in which appeals are presented and hearings and appeals conducted shall be in accordance with regulations prescribed by the secretary for determining the rights of parties, such hearings to be conducted in a summary manner. A complete record shall be kept of all proceedings in connection with any appeal. All testimony at any hearing upon an appeal shall be recorded either stenographically or mechanically. No hearing officer or member of the board shall participate in any hearing in which he is an interested party.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The secretary may promulgate regulations to implement this Act.

Section 6. (1) The secretary may transfer funds as necessary from other appropriations to provide services under this Act, provided the transfer represents a more cost effective delivery of services.

(2) The secretary may request whatever waivers and grants are available to fund services under this Act.

Section 7. The cabinet shall implement this Act with a pilot project which shall extend through December 1986 and which shall serve at least one hundred (100) adults in geographic areas to be designated by the secretary.

Section 8. The cabinet shall report to the appropriate standing committee of the general assembly on its implementation of this Act on July 15, 1984, and each six (6) months thereafter.

The Committee on Transportation reported **HB 391** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 391, AN ACT relating to motorcycle helmets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.285 is amended to read as follows:

(1) No person shall operate a motorcycle on a highway:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the transportation cabinet, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) No person shall operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner.[~~; and~~

~~(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the transportation cabinet, at all times that the vehicle is in motion.~~]

(3) The following persons operating a motorcycle on a public roadway shall be required to wear approved protective headgear, in the manner prescribed by the secretary of the transportation cabinet, at all times the vehicle is in motion:

(a) Any person operating a motorcycle under the age of eighteen (18) years;

(b) Any person operating a motorcycle by the authority of an instruction permit; or

(c) Any person operating a motorcycle having a valid motorcycle operator's license for less than one (1) year. The division of driver licensing through the circuit court clerk shall make a notation on the driver's license of a motorcycle operator possessing a license less than twelve (12) months.

(4) The following passengers on a motorcycle or in a sidecar attachment being operated on a public roadway shall be required to wear approved protective headgear, in the manner prescribed by the secretary of the transportation cabinet, at all times the vehicle is in motion;

(a) Any person under the age of eighteen (18) years; or

(b) If the motorcycle operator is less than eighteen (18) years of age.

(5) No motorcycle operator authorized to drive a motorcycle by virtue of an instruction permit shall be permitted to have passengers.

(6)[~~(3)~~] The secretary of the transportation cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(4) As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

(5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

Orders of the Day

HB 93, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ellington moved that **HB 93** be passed.

Representative Noe moved that **HB 93** be laid on the Clerk's desk. Rejected.

Representative LeMaster moved the adoption of the Floor Amendment No. 1 to **HB 93**. Agreed.

Representative LeMaster moved that **HB 93**, as amended, be passed.

On the roll call the vote was yeas 75-Allen, Arnold, Bennett, Blandford, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, McBee, McElroy, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Worthington, Yates. Nays 22-Barrows, Bendl, Blevins, Brown, Clarke, Cline, Dawahare, Deskins, Endicott, Farrow, Freibert, Hancock, Little, Mann, McNutt, Meyer, Moore, Noe, Perkins, Stumbo, Turner, Williams.

HB 93, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 93**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Amendment No. 1 to **HB 389**. Agreed.

Representative Rapier moved that **HB 389**, as amended, be passed.

Representative Van Horn moved the adoption of the Floor Amendment No. 1 to **HB 389**. Rejected.

Representative Rapier moved that **HB 389**, as amended, be passed.

On the roll call the vote was yeas 74-Allen, Barrows, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Deskins, Donnermeyer, Dunn, Ellington, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, Lile, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Worthington, Yates. Nays 18-Bendl, Brown, Cline, Cyrus, Dawahare, Endicott, Farrow, Gedling, T. Jones, Kenton, List, Little, Maggard, Moore, Pearman, Van Horn, White, Williams.

HB 389, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 389**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 417, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 417** be passed.

Representative Deskins moved the adoption of the Floor Amendment No. 1 to **HB 417**.

Representative Perkins moved that Floor Amendment No. 1 to **HB 417** be laid on the table.

On the roll call the vote was yeas 19-Bendl, Cline, Cowan, Cyrus, Deskins, Endicott, Gray, Hines, R. Jones, Kenton, Kidd, LeMaster, List, Moberly, Noe, Overstreet, Perkins, Thomason, Williams. Nays 69-Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Freibert, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, Layman, Lefevers, Lile, Little, Long, Lundergan, Maggard, Mann, McElroy, McNutt, Meyer, Morris, Nett, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates.

The motion that Floor Amendment No. 1 to **HB 417** be laid on the table was rejected.

On the roll call the vote was yeas 26-Barrows, Bendl, Cline, Cowan, Cyrus, Deskins, Endicott, Foster, Gray, Hines, R. Jones, T. Jones, Kenton, LeMaster, List, McElroy, Moberly, Morris, Noe, Overstreet, Perkins, B. Richardson, P. Richardson, Stumbo, Thomason, Williams. Nays 65-Allen, Arnold, Bennett, Blandford, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Freibert, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, Layman, Lefevers, Lile, Little, Long, Lundergan, Mann, McNutt, Meyer, Moore, Nett, Noland, O'Brien, Patrick, Pearman, Petty, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates.

Floor Amendment No. 1 to **HB 417** was rejected.

On the roll call the vote was yeas 78-Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, Kidd, Layman, Lefevers, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 20-Barrows, Bendl, Brown, Cline, Cowan, Cyrus, Deskins, Gray, Hines, R. Jones, T. Jones, Kenton, LeMaster, List, Moberly, Noe, Overstreet, Perkins, Thomason, Williams.

HB 417 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 417** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 268, HB 350, HB 440, HB 470, HJR 3, HCR 21, SB 120,** and **SCR 8** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-3:45 p.m.)

Orders of the Day (continued)

HB 418, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 1 to **HB 418**. Agreed.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 2 to **HB 418**. Agreed.

Representative Donnermeyer moved that **HB 418,** as amended, be passed.

On the roll call the vote was yeas 82-Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 8-Barrows, Bendl, Cowan, Hines, Moberly, Perkins, R. Jones, T. Jones.

HB 418, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 418,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 20, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Foster moved the adoption of the Committee Substitute to **HB 20.** Agreed.

Representative Holbrook moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 20.** Agreed.

Representative Foster moved that **HB 20,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 20, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 20,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 246 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 246** be passed.

On the roll call the vote was yeas 89-Arnold, Barrows, Behdl, Bennett, Blandford, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 246 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 246** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 364 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 364** be passed.

On the roll call the vote was yeas 59-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Gedling, Gray, Guenthner, Handy, Head, Heleringer, Hines, Johnson, T. Jones, Kenton, Layman, LeMaster, List, Little, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Noe, Noland, Overstreet, Pearman, Perkins, Priddy, Rapier, Rattliff, Robinson, F. Smith, Stone, Thomason, Van Horn, Williams, Worthington, Yates. Nays 31-Burch, Clarke, Crupper, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Hancock, Harper, Holbrook, Holloway, R. Jones, Lefevers, Lile, Long, McNutt, O'Brien, Patrick, Petty, Reinhardt, Richards, B. Richardson, P. Richardson, B. Smith, Thomas, Todd, Turner, White.

HB 364 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 364** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 493, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Substitute to **HB 493**. Agreed.

Representative Donnermeyer moved that **HB 493**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 81-Arnold, Barrows, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Perkins, Petty, Priddy, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 11-Allen, Burnette, Craddock, Gedling, Layman, McElroy, McNutt, Pearman, Rapier, Todd, Turner.

HB 493, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 493**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 631 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 631** be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Endicott.

HB 631 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 631** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 653 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 653** be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 653 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 653** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 2 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 2** be passed.

On the roll call the vote was yeas 91-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 2 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 2** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 102 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 102** be passed.

On the roll call the vote was yeas 93-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 102 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 102** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 64 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **SB 64** be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 64 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 64** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 806, by Representatives Priddy and Blandford: AN ACT relating to retail sales.

HB 807, by Representative Johnson: AN ACT relating to alcoholic beverages.

HB 808, by Representatives Yates and L. Clark: AN ACT relating to plumbing materials.

HB 809, by Representative P. Richardson: AN ACT relating to securities.

HB 810, by Representatives B. Smith, Freibert, P. Clark, Burnette, and Richards: AN ACT relating to day care.

HB 811, by Representatives B. Smith, Farrow, and Turner: AN ACT relating to surplus public property.

HB 812, by Representatives B. Smith, Farrow, Pearman, and Turner: AN ACT relating to water districts.

HB 813, by Representative Seum: AN ACT relating to the public service commission.

HB 814, by Representative Donnermeyer: AN ACT relating to fiscal courts.

HB 815, by Representative Craddock: AN ACT relating to motor vehicles.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 16.**

Judiciary-Criminal: **SB 141.**

Labor and Industry: **SB 239, HB 699.**

Cities: **HB 753, HB 756, HB 762.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Cities: **HB 326.**

Report of Committees

The Committee on Health and Welfare reported **HB 595,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 595, AN ACT relating to use of public funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.715 is amended to read as follows:
No public funds shall be used for the purpose of obtaining an abortion or paying for the performance of an abortion. [~~No public funds shall be used for the purpose of conducting research into or for the performance of in-vitro fertilization, which is a procedure involving the destruction of live human fetuses.~~] For purposes of this section, "public funds" means any money of the Commonwealth of Kentucky, any department, agency or instrumentality thereof, or any money of any county, city, agency or instrumentality thereof or any money of any other political subdivision of the Commonwealth, agency or instrumentality thereof. Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

The Committee Substitute to **HB 595** is as follows:

HB 595, AN ACT relating to use of public funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.715 is amended to read as follows:
No public funds shall be used for the purpose of obtaining an abortion or paying for the performance of an abortion. *Public funds may be used for the performance of in-vitro fertilization as long as such procedures do not result in the intentional destruction of a human embryo.* [~~No public funds shall be used for the purpose of conducting research into or for the performance of in-vitro fertilization, which is a procedure involving the destruction of live human fetuses.~~] For purposes of this section, "public funds" means any money of the Commonwealth of Kentucky, any department, agency or instrumentality thereof, or any money of any county, city, agency or instrumentality thereof or any money of any other political subdivision of the Commonwealth, agency or instrumentality thereof. Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

The Committee on Transportation reported **HB 439,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 439, AN ACT relating to ad valorem taxation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.810 is amended to read as follows:

(1) All state, county, school and special taxing district ad valorem taxes *on motor vehicles* shall be due and payable on or before the last day of the month in which registration *renewal* is required by law [~~for all motor vehicles renewed or transferred~~].

(2) All state, county, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the end of the month in which registration is required by law.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. The county clerk shall file a lien on any motor vehicle for which taxes have become delinquent on behalf of the state, county, school, and special taxing districts and record such lien on the face of the certificate of title and registration, and also record the lien in the manner in which lis pendens are recorded.

(4) *(a)* When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the *seller* [~~purchaser~~] shall become liable for the taxes on said motor vehicle.

(b) The department of revenue shall promulgate regulations to insure that the seller of a motor vehicle, transferred or sold after the assessment date and prior to the date for registration renewal as required by law, pays the property taxes due on the motor vehicle transferred or sold.

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month following said assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

Section 2. KRS 186.190 is amended to read as follows:

(1) *On or after January 1, 1985* whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain *with the person who originally registered the vehicle transferred or sold* [~~upon such motor vehicle as a part of it until the expiration of the registration year~~].

(2) No person shall purchase, sell or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the current registration receipt issued on the motor vehicle and *the vehicle transaction record* [~~the bill of sale~~].

(3) Upon delivery of the registration receipt and the *vehicle transaction record* [~~bill of sale~~] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the transportation cabinet. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

(4) Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use *or fails to purchase another vehicle*, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall immediately return the plate and receipt to the transportation cabinet. The owner shall pay to the county clerk fifty cents (50) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information as required by the department of vehicle regulation.

The Committee Substitute to **HB 439** is as follows:

HB 439, AN ACT relating to ad valorem taxation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.810 is amended to read as follows:

(1) All state, county, school and special taxing district ad valorem taxes *on motor vehicles* shall be due and payable on or before the last day of the month in which registration *renewal* is required by law [~~for all motor vehicles renewed or transferred~~].

(2) All state, county, school and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the end of the month in which registration is required by law.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. The county clerk shall file a lien on any motor vehicle for which taxes have become delinquent on behalf of the state, county, school, and special taxing districts and record such lien on the face of the certificate of title and registration, and also record the lien in the manner in which lis pendens are recorded.

(4) *(a) On or after January 1, 1985,* when a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the *seller* [~~purchaser~~] shall *remain* [~~become~~] liable for the taxes on said motor vehicle.

(b) The department of revenue shall promulgate regulations to insure that the seller of a motor vehicle, transferred or sold after the assessment date and prior to the date for registration renewal as required by law, pays the property taxes due on the motor vehicle transferred or sold.

(5) In the event that an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration are due and payable on or before the last day of the first birth month fol [illegible] assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

Section 2. KRS 186.190 is amended to read as follows:

(1) *On or after January 1, 1985* whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain *with the person who originally registered the vehicle transferred or sold* [~~upon such motor vehicle as a part of it until the expiration of the registration year~~].

(2) No person shall purchase, sell or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the current registration receipt issued on the motor vehicle and *the vehicle transaction record* [~~the bill of sale~~].

(3) Upon delivery of the registration receipt and the *vehicle transaction record* [~~bill of sale~~] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the transportation cabinet. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

(4) Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) *Effective January 1, 1985,* if the owner junks or otherwise renders a motor vehicle unfit for future use *or fails to purchase another vehicle*, he shall deliver the *certificate of registration, certificate of title,* registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall immediately return the *certificate of title,* plate and receipt to the transportation cabinet. The owner shall pay to the county clerk fifty cents (50) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information as required by the department of vehicle regulation.

Section 3. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered *and titled:*

(a) When he collects the registration *and title* fee for registering, *titling* and licensing a motor vehicle the first time it is offered for registration *titling* in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered *and titled* in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department and on such forms as the department may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register, *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *and titling* for the first time, or transfer the ownership of any motor vehicle previously registered *and titled* in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration *title* and license fees.

(5) When a resident of this state offers a motor vehicle for *either* registration *or title* for the first time in this state which was registered *or titled* in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register *title* or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration *or titling* for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and *certificate of title* [~~ownership~~] mailed to the department.

(7) Notwithstanding the provisions of KRS 138.450(4), in no case shall the tax be less than five dollars ($5.00) upon first registration of *and titling* or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a new motor vehicle is sold by a dealer in this state and the original purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a new vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the department of revenue as a result of the registration *and titling* of the returned vehicle. The registration *and titling* of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department of revenue as a result of the first registration *and titling*. No person shall be entitled to a refund unless he shall have filed with the department of revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

Motions, Petitions, and Communications (continued)

Representative Gray moved that **HB 428** be withdrawn. Agreed.

Representative Hines moved that he be recorded as voting "yea" on **HR 53**. Agreed.

Representative Hines moved that he be recorded as voting "yea" on **HB 568**. Agreed.

Representative Hines moved that he be recorded as voting "yea" on **SB 120**. Agreed.

Representative Foster moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blevins, **HB 492**, **HB 787**; Representative Bruce, **HB 758**; Representative P. Clark, **HB 417**, **HB 418**, **HB 76**; Representative Farrow, **HB 787**; Representative Harper, **HB 417**, **HB 787**; Representative Head, **HB 33**, **HB 93**, **HB 196**, **HB 750**; Representative Holloway, **HB 684**; Representative R. Jones, **HB 568**; Representative LeMaster, **HB 787**; Representative McBee, **HB 759**; Representative Mann, **HJR 46**; Representative Reinhardt, **HB 486**; Representative Richards, **HB 153**; Representative P. Richardson, **HB 787**; Representative Riner, **HB 492**; Representative Seum, **HB 588**; Representative B. Smith, **HB 246**; Representative F. Smith, **HB 170**, **HB 318**.

The following members requested that their names be withdrawn as co-sponsors of Resolutions: Representative Lundergan, **HJR 75, HR 76;** Representative Reinhardt, **HR 76.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 240,** by Representative Holbrook.

Amend printed copy of **HB 240,** on page 8, line 7, by inserting after "*shall*" the following: "*, if its local pension system provides a defined benefit,*";

And on page 8, line 10, by inserting after "*participation.*" the following: "*Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation.*";

And on page 21, line 5, by inserting after "*section.*" the following: "*Selection of the alternate participation shall be optional for cities which provide a defined contribution pension plan.*";

And on page 22, line 21, by inserting after "*section.*" the following: "*Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.*";

And on page 26, line 23, by inserting after "*section.*" the following: "*Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.*";

And on page 29, line 5, by inserting after "*section.*" the following: "*Selection of the alternate participation plan shall be optional for cities which provide a defined contribution pension plan.*";

And on page 33, line 1, by inserting after "*shall*" the following: "*, if its local pension system provides a defined benefit,*".

Floor Amendment No. 1 to **HB 292,** by Representative R. Jones:

Amend printed copy of Committee Substitute to **HB 292,** on page 2, line 9, after "person,", by adding "*who*", and by inserting a bracket "[" before "except", and by striking through "except a religious society, municipal corporation or fraternal burial association, that";

And on page 2, line 11, by inserting a bracket "]" after "that";

And on page 2, line 12, after "tery.", by adding "*Excepted are small community cemeteries, their agents, lessees and otherwise, that operate non-profit; have no salaried employes, directors, officers or managers other than maintenance caretakers; are owned, controlled by lot owners; and do not sell any pre-need merchandise or services.*"

And on page 8, line 16, after "funds", by inserting "*, or in any other financially sound entity with the prior written approval of the Attorney General,*".

Floor Amendment No. 2 to **HB 292,** by Representative R. Jones:

Amend printed copy of Committee Substitute to **HB 292,** on page 3, after line 11, by adding the following:

"*(15) "Pre-need cemetery merchandise contract" means any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or delivery of cemetery merchandise, which within six (6) months of the date of the contract is not attached to the realty and permanently installed or which is not stored in a bonded warehouse with the receipt of ownership issued by the manufacturer in the name of the purchaser and transmitted to the purchaser.*";

And on page 10, line 4, by deleting Section 6 in its entirety and inserting in lieu thereof the following:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Forty percent (40%), not including interest or finance charges, of all payments of money made to

any person, partnership, association or corporation upon any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or delivery of cemetery merchandise, which within six (6) months of the date of the contract is not delivered by attachment to the realty and permanent installation or which is not stored in a bonded warehouse with the receipt of ownership issued by the manufacturer in the name of the purchaser and transmitted to the purchaser are held to be trust funds. The person, partnership, association or corporation receiving the payments shall deposit forty percent (40%) of all payments received on a pre-need cemetery merchandise contract in a trust fund account within six (6) months of the date of contract, and forty percent (40%) of all payments received thereafter on said contract shall be deposited in the trust fund account within thirty (30) days after each calendar quarter of operation. The trustee shall be the financial institution holding said funds. All of the interest, dividends, increases or accretions of whatever nature earned by the funds deposited in a trust account shall remain with the principal of such account and become a part thereof, subject to all of the regulations concerning the principal of said fund herein contained.

(2) All trust funds mentioned in this section shall be deposited in the name of the person making said deposits, with the financial institution as trustee, with a financial institution and shall be held together with the interest, dividends, or accretions thereon, in trust, subject to the provisions of this Act. The person at the time of making deposit or investment shall furnish to the financial institution the name of each payor, and the amount of payment on each account for which the deposit or investment is being made.

(3) Forty percent (40%) of all payments, not including interest or finance charges, made under the agreement contract or plan are and shall remain trust funds with the financial institution, until the financial institution receives a sworn affidavit from the depositor stating one of the following:

(a) That delivery of all merchandise by attachment to the realty or permanent installation of the merchandise has been completed and that there has been full performance of all services called for by the agreement, contract or plan; or

(b) That there has been delivery of all of the merchandise called for by the agreement by storing the same in a bonded warehouse with the receipt of ownership issued by the manufacturer in the name of the purchaser and transmitted to the purchaser.

Upon receiving said affidavit, the financial institution shall remit the funds on deposit for the performed contract, plus interest, to the depositor. Release of funds may also be made pursuant to a request for a refund or cancellation under this Act.

(4) In the event that a purchaser is in default of a pre-need cemetery merchandise contract, the financial institution shall release to the depositor the funds, plus interest, deposited on behalf of the defaulted contract upon receiving from the depositor a sworn affidavit stating that the purchaser is in default of the pre-need cemetery merchandise agreement, the date of the default, an explanation of the default and that the depositor has mailed a copy of the affidavit to the purchaser's last known address at least thirty (30) days prior to said request for release.

(5) Deposits to such funds and the amounts deposited may be commingled, but the accounting records shall establish a separate account for each prepaid contract and shall show amounts deposited and the income and loss occurring thereon with respect to each contract.

(6) The trustee may rely upon all certifications and affidavits made pursuant to or required by the provisions of this Act, and shall be liable to any person for such reliance.

(7) In lieu of the trust fund deposits required herein, the person may post with the attorney general, division of consumer protection, a good and sufficient bond by a surety company licensed to do business in Kentucky and in an amount sufficient to cover all payments made by or on account of purchasers who have not received the purchased property and services. This bond shall be held for the benefit of a purchaser, or his or her heir or assign or duly authorized representative, who suffers a loss of money paid pursuant to a pre-need cemetery merchandise contract entered into after the effective date of this Act due to the insolvency of the registrant, or failure to provide the cemetery merchandise called for by contract that has been paid in full and not provided after a ninety (90) day request in writing to do so. If a bond is posted, the attorney general's office shall receive sixty (60) days written notice in the event of cancellation. On or before the cancellation date, the person shall comply with the trust fund requirements herein or post another good and sufficient bond.

(8) Any person selling a pre-need cemetery merchandise contract shall pay to the attorney general give dollars ($5) for each said contract entered into, and all of which fees shall be remitted by the person to the attorney general at least once each month, and such funds shall be used by the attorney general in administering this chapter."

And on page 22, after line 25, by adding "307.140 Merchandise Trust Fund".

Floor Amendment No. 3 to **HB 292,** by Representative R. Jones:

Amend printed copy of Committee Substitute to **HB 292,** on page 20, after line 24, by adding the following:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person selling pre-need cemetery merchandise contracts and/or preconstruction mausoleums, columbarium or underground crypt contracts shall pay to the attorney general five dollars ($5) for each said contract entered into of which the gross sales price as defined in this Act is five hundred dollars ($500) or less and ten dollars ($10) for each said contract entered into of which the gross sales price is over five hundred dollars ($500), to be paid into a special income earning account known as "consumer security account." The above said fees shall be remitted to the attorney at least once each month.

(2) The funds in said account shall be used solely for the purpose of providing restitution to consumers who have suffered pecuniary loss in the purchase of a pre-need cemetery merchandise contract and/or a preconstruction mausoleum, columbarium or underground crypt contract. The fund shall be applied only to restitution that is ordered by circuit court in a lawsuit brought under this Act by the attorney general and which is determined by the attorney general to be noncollectible from the judgment debtor(s).

(3) Whenever restitution is paid by the fund, the fund shall be subrogated to the amount of such restitution, and the attorney general shall engage in all reasonable post judgment collections steps to collect said restitution from the judgment debtor(s) and reimburse the fund.

(4) The fund shall not be applied toward any restitution for losses in any lawsuit initiated by the attorney general prior to the effective date of this Act.

(5) Notwithstanding any other provision of this section, the payment of restitution from the fund shall be a matter of grace and not of right and no person shall have any vested rights in the fund as a beneficiary or otherwise."

And on page 20, line 25, after "Section" by inserting "10" and deleting "9", and by renumbering subsequent sections.

Floor Amendment No. 4 to **HB 292,** by Representative R. Jones:

Amend printed copy of Committee Substitute to **HB 292,** on page 21, line 1, before "*Whenever*" by inserting "*(1)*";

And on page 21, after line 11, by adding the following:

"*(2) Any person engaging in a combination sale which involves the sale of any item in addition to the sale of cemetery merchandise or a combination sale which involves the sale of any item in addition to the sale of rights to interment, inurnment or entombment shall be prohibited from increasing the gross sales price of those items which require lesser trust fund deposit with the purpose of allocating a lesser trust fund deposit with the purpose of allocating a lesser gross sales price to items which require a higher trust fund requirement.*"

Floor Amendment No. 5 to **HB 292,** by R. Jones:

Amend printed copy of Committee Substitute to **HB 292,** on page 21, after line 11, by adding the following:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS

FOLLOWS:

Any cemetery company that receives a foundation order shall complete the foundation installation within ninety (90) days, without discrimination, providing, however, that any delay caused by inclement weather, strike, shortage of materials, civil disorder, natural disaster or any like occurrence beyond the control of such person shall extend the time of such completion by the length of such delay.";

And on page 21, line 12, after "SECTION" by deleting "10" and inserting "11", and by renumbering subsequent sections.

Floor Amendment No. 1 to **HB 320,** by Representative Moberly:

Amend printed copy of Committee Substitute to **HB 320,** on page 1, line 15 delete "*fifty (150)*" and insert "*twenty (120)*" in lieu thereof.

Floor Amendment No. 1 to **HB 330,** by Representative Farrow:

Amend printed copy of **HB 330,** on page 1, line 6, by placing brackets before and after the words "oral or"

Floor Amendment No. 1 to **HB 548,** by Representative Mann:

Amend printed copy of **HB 548,** on page 3, line 13, by adding the following after the word "*terminated*": "*except that nonrenewal of a limited contract, leave of absence or suspension of a continuing contract shall not cause seniority to end if the teacher is rehired, reinstated, or returns to regular duties within two (2) years. However, seniority may be retained beyond the two (2) year limit under policies of the district board of education. Seniority shall not accrue during the time of nonrenewal of contract, leave of absence or suspension except as the board of education may provide under its policies.*"

Floor Amendment No. 1 to **HB 595,** by Representative Overstreet:

Amend printed copy of Committee Substitute to **HB 595,** on page 1, line 5, after the word "abortion" by adding "*unless the pregnancy is a result of rape or incest*".

The following meetings were announced:

Counties and Special Districts: Special meeting, Friday, 8:30 a.m., Room 103.

Judiciary-Criminal: Public hearing, Thursday, 8:00 a.m.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, February 29, 1984.

On the roll call the vote was yeas 74-Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Farrow, Ford, Foster, Gedling, Gray, Hancock, Harper, Head, Holbrook, Holloway, Johnson, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams. Nays 1-Clapp.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 29, 1984

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Speaker Richardson.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 28, 1984, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 816, by Representative McNutt: AN ACT relating to registration of outboard motors.

HB 817, by Representative Dunn: AN ACT relating to nomination papers.

HB 818, by Representative Crupper: AN ACT relating to public auctions.

HB 819, by Representative Crupper: AN ACT relating to public health.

HB 820, by Representatives Harper, Brinkley, and Caldwell: AN ACT relating to reorganization.

HB 821, by Representative Meyer: AN ACT relating to insurance.

HB 822, by Representative Burch: AN ACT relating to solid waste disposal services.

HB 823, by Representative Long: AN ACT relating to civil actions.

HB 824, by Representatives Arnold and B. Smith: AN ACT relating to certificates of elections.

HCR 86, by Representative Donnermeyer: A CONCURRENT RESOLUTION establishing a task force to consider the creation of a retirement program for volunteer firemen.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 806.**

Appropriations and Revenue: **HB 805.**

Banking and Insurance: **HB 809.**

Business Organizations and Professions: **HB 807.**

Counties and Special Districts: **HB 797, HB 800, HB 804, HB 812, HB 814, SB 270.**

Education: **HB 798, HB 799, SB 259.**

Energy: **HB 813.**

Health and Welfare: **HB 810.**

Judiciary-Civil: **HB 796, SB 201.**

Labor and Industry: **HB 808.**

State Government: **HB 802, HB 803, HB 811, SB 265, SB 256, SB 245, SB 240.**

Transportation: **HB 801, HB 815, SB 191.**

Report of Committees

The Committee on Rules reported **HB 292, HB 598, SB 65, HB 602,** and **HB 650** have been posted for passage in Orders of the Day, March 1, 1984.

The Committee on Rules reported **HB 424** has been recommitted to the Committee on Judiciary-Civil and **HB 601** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Agriculture and Small Business reported **HR 61** and **SB 7** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 61, A RESOLUTION relating to tobacco.

WHEREAS, the Commonwealth of Kentucky and her people feel the burden of these hard times; and

WHEREAS, the people recognize the need for a strong and vibrant agriculture; and

WHEREAS, the Secretary of Agriculture of the present federal administration has announced a 10 percent reduction in 1984 quotas for burley tobacco after the shortest crop on record; and

WHEREAS, the economic impact upon the Commonwealth of Kentucky, and her people will be devastating; and

WHEREAS, the present tobacco program, after many years of successfully serving its purpose to the people, has been altered to such an extent that it will destroy the livelihoods and hopes of a large segment of the people; and

WHEREAS, the imports of high-grade burley tobacco under the clever disguises of other lower quality grades as allowed by law are creating havoc within the Commonwealth of Kentucky's economy; and

WHEREAS, the imports of high-grade burley leaf are subsidized by the no-net cost program and bring to bear undue hardship upon our producers; and

WHEREAS, the Kentucky burley tobacco grower is being subjected to unfair treatment in the market by this deliberate attempt of the USDA to dismantle and destroy the tobacco program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the 1984 General Assembly of the Commonwealth of Kentucky demand an accounting by those USDA officials and elective bodies responsible for this destructive and subversive attempt to destroy the number one cash crop of Kentucky farmers.

Section 2. That the 1984 General Assembly of the Commonwealth of Kentucky issue a plea to the USDA and Congress for an economic impact study upon the producers and their communities.

Section 3. That the 1984 General Assembly of the Commonwealth of Kentucky establish a task force to determine the impact the no-net cost program will have upon the producers, both short-term and long-term.

Section 4. That the 1984 General Assembly of the Commonwealth of Kentucky petition the General Accounting Office of the U.S. Government for documentation as to the volume of imports, grading procedures, pesticide and insecticide testing procedures of foreign leaf, country of origin, and whether slave or forced labor is used to produce tobacco by companies or countries.

SB 7, AN ACT relating to photographic evidence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 422 IS CREATED TO READ AS

FOLLOWS:

(1) In a prosecution for any offense defined in KRS Chapter 514 or 515 the court shall receive, as competent evidence, a photograph of property over which the accused is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully, if the photograph:

(a) Will serve the purpose of demonstrating the nature and identity of the property; and

(b) Is otherwise admissible into evidence under all other rules of law governing the admissibility of photographs into evidence.

The fact that it is impractical to introduce into evidence the actual property for any reason including its size, weight, or unavailability, need not be established for the court to find a photograph of that property to be competent evidence. If a photograph is found to be competent evidence under this section, it is admissible into evidence in place of the property and to the same extent as the property itself.

(2) A law enforcement agency that is holding as evidence property over which a person is alleged to have exerted unauthorized control or to have otherwise obtained unlawfully shall return that property to its owner if:

(a) The property has been photographed in a manner that will serve the purpose of demonstrating the nature and identity of the property, and if these photographs are filed with or retained by the law enforcement agency in place of the property;

(b) Receipt for the property is obtained from the owner upon delivery by the law enforcement agency;

(c) The prosecuting attorney who is prosecuting a case that involves the property has not requested the law enforcement agency to decline requests for return of the property to its owner; and

(d) The property may be lawfully possessed by the owner.

(3) Notwithstanding the provisions of subsection (2) of this section, a court may, if a motion so requesting is filed by a defendant within twenty (20) days of arrest, order the law enforcement agency to hold such property as evidence pending completion of the trial. However, the court may, for good cause, extend the time allowed for the defendant to file a motion to have the property held.

The Committee on Agriculture and Small Business reported **SB 11**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 2 to **SB 11** is as follows:

Amend printed copy of **SB 11**, page 1, line 4, by inserting after "*spaces*" and before the period the following:

"*and located within a cemetery registered pursuant to KRS 307.110 in a county containing an urban-county government or city of the first class.*"

The Committee on Cities reported **HB 571** with Committee Amendment attached thereto, **HB 639, HB 707,** and **SB 81** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 571, AN ACT relating to legal notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.120 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, whenever an advertisement for a publication area is required by law to be published in a newspaper, the publication must be made in a newspaper that meets the following requirements:

(a) It must be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains its principal office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a second-class mailing permit issued for that office. A newspaper published outside of Kentucky shall not be eligible to carry advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper published in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

(b) It must be of regular issue and have *a* [~~the largest~~] bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty (50) weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding two-year period. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent (50%) of its published price, and is paid for by not less than fifty percent (50%) of those to whom distribution is made; and

(c) It must bear a title or name, consist of not less than four (4) pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content must be at least twenty-five percent (25%) of the total column space in more than one-half (1/2) of its issues during any twelve-month period.

(d) If, in a publication area there is more than one (1) newspaper which meets the above requirements, the newspaper having the largest bona fide circulation as shown by the *average number of copies of each issue during the preceding twelve (12) months as stated upon its* published statement of ownership for the publication area shall be the newspaper where advertisements required by law to be published shall be carried.

(e) For the purposes of KRS Chapter 424, publishing shall be considered as the total recurring processes of producing the newspaper, embracing all of the included contents of reading matter, illustrations, and advertising enumerated in paragraphs (a) through (d) of this subsection. A newspaper shall not be excluded from qualifying for the purposes of legal publications as provided in this chapter if its printing or reproduction processes take place outside the publication area.

(2) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for such county, any advertisements required to be published for such county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county, published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a district, other than a city, which extends into more than one (1) county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each such separate publication area shall be published in a newspaper qualified under this section to publish advertisements for such area.

The Committee Amendment No. 1 to **HB 571** is as follows:

Amend printed copy of **HB 571**, page 2, line 24, after the word "bona fide" by inserting the word "*paid*";

And on page 2, line 25, before the word "*copies*" by inserting the word "*paid*"

And on page 2, line 26, by deleting the line in its entirety and inserting in lieu thereof the following: "*as shown in*"

And on page 3, line 1, after the word "ownership" by adding the following: "*as filed on October 1*"

HB 639, AN ACT relating to publication of notices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.250 is amended to read as follows:

At the same time that copies of the budget of a school district are filed with the clerk of the tax levying authority for the district, as provided in KRS 160.470, the board of education of the district shall cause the budget to be advertised for the district by publishing a *summary* [~~copy~~] of the budget in a newspaper. *The advertisement shall state that a copy of the budget is available for inspection at the office of the clerk of the tax levying authority for the district.*

Section 2. KRS 424.240 is amended to read as follows:

Immediately following the adoption of an annual budget by any *county or* city other than one of the first class, the *county or* city clerk shall cause a summary of the budget or the text of the budget ordinance to be advertised for the *county or* city by publication in a newspaper.

HB 707, AN ACT relating to urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.070 is amended to read as follows:

(1) Urban-county governments may enact and enforce within their territorial limits such tax, licensing, police, sanitary and other ordinances not in conflict with the constitution and general statutes of this state now or hereafter enacted, as they shall deem requisite for the health, education, safety, welfare and convenience of the inhabitants of the county and for the effective administration of the urban-county government.

(2) Urban-county government ordinances shall be deemed to conflict with general statutes of this state only:

(a) When the ordinance authorizes that which is expressly prohibited by a general statute; or

(b) When there is a comprehensive scheme of legislation on the same subject embodied in a general statute.

(3) No ordinance or resolution shall be considered by the urban-county government legislative body until it has been read at two separate meetings; provided, however, that the requirement for a second reading may be suspended by a two-thirds (2/3) vote of the membership of the legislative body. Requirements for reading ordinances or resolutions may be satisfied by public reading of the title and of a certified synopsis of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky.

(4) All ordinances and resolutions shall be effective upon passage, unless timely vetoed by the chief executive officer of the urban-county government pursuant to the provisions of the comprehensive plan of the urban-county government. Any ordinance or resolution imposing fines, forfeitures, imprisonment, taxes or fees, other than a bond ordinance or resolution, shall be published in full in the daily newspaper which has the largest bona fide circulation in the county and is published in the publication area. The publication requirements for all other ordinances or resolutions, including bond ordinances or resolutions, shall be satisfied by publication in full or by publication of the title and of a certified synopsis of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky.

(5) The provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation may be adopted by ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the urban-county government.

SB 81, AN ACT relating to operation of waterworks in cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.320 is amended to read as follows:

Cities of the second class that own a waterworks may operate such waterworks as a department of the city, or may appoint a commission to operate such waterworks. If such a commission is appointed, it shall be styled "Commissioners of Waterworks," and shall be composed of from three (3) to *six (6)* [~~five (5)~~] members to be appointed by the mayor, subject to the approval of the city legislative body. If a commission is composed of *six (6)* [~~five (5)~~] members, the mayor shall appoint, in addition to the *six (6)* [~~five (5)~~] members, a member of the legislative body of the city who shall be an ex officio member of the commission. *All commissioners shall reside in the area served by the waterworks and be registered voters in the county. A majority of the commissioners shall be residents of the city.* [~~They shall be residents and legal voters of the city.~~] The terms of the members shall be fixed by the city legislative body, or they may be appointed for indefinite terms, subject to removal by the city legislative body for cause. The commissioners shall give bond for the faithful performance of their duties in the sum of five thousand dollars ($5,000). The commissioners shall manage the water system of the city. They may appoint a superintendent, secretary, treasurer and other necessary employes and fix their salaries. They shall make full monthly reports to the city legislative body of the operation and condition of the water system, including all receipts and expenditures. *A majority of the* [~~Three (3)~~] members of the board shall constitute a quorum for the transaction of business.

The Committee on Natural Resources and Environment reported **HB 263** with Committee Substitute attached thereto, **HB 514,** and **HB 605** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 263, AN ACT relating to water well construction practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky water well and pump installation certification board;

(2) "Cabinet" means the natural resources and environmental protection cabinet;

(3) "Certificate" means a certificate of competency issued by the secretary stating that the pump installer or water well driller has met all the requirements for the appropriate classification set forth in this Act or by regulation;

(4) "Person" means an individual, corporation, partnership, association, municipality, state and federal government, or other public body or other legal entity, or any officer, employee or agent of any of the foregoing.

(5) "Pump installer" means a person who is qualified to engage in the installation, removal, alteration or repair of water well pumping equipment;

(6) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(7) "Water well" or "well" means any excavation or opening in the surface of the earth that is drilled cored, bored, washed, driven, dug, jetted or otherwise constructed when the actual or intended use in whole or part of such excavation is the removal of water for any purpose, including but not limited to culinary and household purposes, animal consumption, food manufacture, use of geothermal resources for domestic heating purposes and industrial, irrigation and dewatering purposes, but not including wells dug for watering stock or general farmstead use;

(8) "Water well driller" means a person who is qualified to engage in the drilling, alteration, or repair of a water well as defined in this chapter;

(9) "Water well pump installation" means the installation, removal, alteration, or repair of water well pumping equipment in connection with a water well, including any device or mechanical equipment used to remove water from a well.

SECTION 2. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

It is unlawful for any person as defined in this Act, to construct, alter or repair a water well or install or repair a water pump or pump equipment in a well without first having obtained a valid license as provided for in this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The Kentucky water well and pump installation certification board is established. The board shall recommend to the secretary rules and regulations to govern examinations; hearings to suspend, revoke or deny a certificate; and any other duties prescribed by this Act. The subject matter of such examinations shall include, in addition to any standardized section, testing for knowledge of local laws and regulations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) The board shall be appointed by the governor upon the advice of the secretary after soliciting recommendations of interested parties. All members of the board shall be residents of the Commonwealth. The board shall be composed of the following:

(a) A driller who is an active member of both the national water well association and the Kentucky water well association and whose business is actively involved in both drilling water wells and installing pumps and water systems to serve for an initial term of three (3) years;

(b) A member who is a representative of the cabinet who shall serve as the executive secretary and treasurer of the board and shall be responsible for maintaining records, to serve for an initial term of three (3) years;

(c) A member who is a hydrogeologist or hydrologist from the Kentucky geological survey to serve for an initial term of two (2) years;

(d) Three (3) members who are water well drillers, each representing a different geographic region within the Commonwealth, to serve for an initial term of two (2) years; provided that of the drillers selected, one (1) must be certified to install wells using the cable tool drilling method, one (1) must be certified in the use of rotary method, and one (1) must be certified in pump and water system installations in addition to drilling water wells.

(e) A member from the public at large, who shall not be in any way connected with a water well or pump installation business, to serve for an initial term of two (2) years.

(2) Upon the expiration of the respective terms, each successor shall be appointed in the same manner as the predecessor for a term of three (3) years.

(3) At the first meeting of the board held in each calendar year, the board shall elect a chairperson who shall serve for one (1) year. A majority of members shall decide upon rules of procedure.

(4) The board shall hold as many meetings a year as are necessary to effectuate the purpose of this Act, but the board must hold at least quarterly meetings. Notice of a meeting shall be sent to each member at least ten (10) days prior to the meeting. Five (5) members shall constitute a quorum. Rules of procedure adopted by the board may provide for such additional meetings as are necessary.

(5) The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties.

SECTION 5. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall:

(a) Fix and announce dates for the examinations;

(b) Prepare and make available forms for application for a water well driller or pump installer certificate;

(c) See that all examinations for certificates are graded;

(d) Prepare and issue certificates to those entitled thereto;

(e) Upon recommendation of the board, promulgate rules and regulations as are necessary to carry out the purposes of this Act, including the conducting of examinations and the suspension and revocation of certificates;

(f) Inspect and investigate water wells and water pumps to ensure compliance with the provisions of this Act;

(g) Maintain and publish annually a register showing the names and addresses of certified water well drillers and pump installers and distribute a copy of same to each certified individual free of charge;

(h) Maintain under the control of the executive secretary and treasurer a record showing:

1. The names and addresses of all certified individuals under this Act;

2. The dates of issuance and renewal of all certificates;

3. The date and substance of the charges set forth in any complaint for suspension or revocation of any certificate;

4. The date and substance of all petitions for reinstatement of certificates; and

5. The final order on such complaints and petitions.

(2) Upon written request the cabinet shall make the information set forth in paragraph (h) of subsection (1) of this section available to any person so requesting.

(3) The cabinet may conduct training to further the provisions of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) Application for a certificate, or for renewal thereof, shall be made to the cabinet in writing under oath or affirmation, upon forms prescribed and furnished by the cabinet. Such applications shall include:

(a) The name and address of the applicant;

(b) Prior experience, if any, in the field for which the applicant is applying;

(c) Any other information that the cabinet deems necessary in order to carry out the provisions of this Act;

(d) A list of any criminal convictions of any type; and

(e) All past and current licenses held in this or any other state relating to the provisions of this Act.

(2) The cabinet may issue a water well driller certificate to any applicant who meets all of the provisions of this Act and:

(a) Is at least eighteen (18) years of age; and

(b) Is a citizen of the United States or has declared an intention to become a citizen of the United States; and

(c) Has worked continuously for two (2) years under the supervision of a certified water well driller; for those in business on the effective date of this Act, the two (2) year experience requirement shall be deemed satisfied if the driller has engaged in water well drilling, over the two (2) previous years on a continuous basis and has done so to the satisfaction of the cabinet; and

(d) Has a passing grade on the examination as determined by the cabinet.

(3) Those persons continuously in business for two (2) years on the effective date of this Act shall apply for and obtain a certificate by July 1, 1985.

(4) The cabinet may issue a pump installer certificate to any applicant who meets all of the provisions of this Act and:

(a) Is at least eighteen (18) years of age; and

(b) Is a citizen of the United States or has declared an intention to become a citizen of the United States; and

(c) Has worked continuously for two (2) years under the supervision of a certified pump installer; for those in business on the effective date of this Act, the two (2) year experience requirement shall be deemed satisfied if the pump installer has engaged in water well pump installation the two (2) previous years on a continuous basis and has done so to the satisfaction of the cabinet; and

(d) Has a passing grade on the examination as determined by the cabinet.

(4) Those persons continuously in business for two (2) years on the effective date of this Act shall apply for and obtain a certificate by July 1, 1985.

(5) The term of each certificate shall be one (1) year. Each certificate shall carry with it the right to successive renewal upon application and payment of fee, unless the board finds that the certified individual has failed to comply satisfactorily with this Act or the regulations promulgated pursuant to this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) Each application for issuance or renewal of a certificate shall be accompanied by a proof of liability coverage for bodily injury of at least one hundred thousand dollars ($100,000) per person with an aggregate of at least three hundred thousand dollars ($300,000) and for property damage of at least fifty thousand dollars ($50,000) per accident with an aggregate of at least one hundred thousand dollars ($100,000). Notice shall be given by certified mail to the executive secretary and treasurer of the board by the insurer upon lapse of coverage by the insurance company for any reason, including nonpayment of premiums.

(2) Prior to the issuance of a driller or pump installer certificate, proof of a surety bond must be filed along with the application for a certificate. The penal sum of this bond shall be five thousand dollars ($5,000), with the applicant designated as the principal obligor and the Commonwealth designated as the obligee. The surety may be called on by the secretary if the certified individual violates any rule, regulation or provision of this Act. Notice of lapse of coverage for any reason by the surety shall be given by certified mail to the executive secretary and treasurer of the board by the surety.

SECTION 8. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The secretary, upon recommendation of the board, shall promulgate rules and regulations establishing standards of practice for water well construction and pump installation. The secretary shall utilize the manual of water well construction practices as the guidance document in the development of standards and regulations. These standards and regulations shall be proposed within one (1) year of the effective date of this Act and shall be included as a component of the certification program.

SECTION 9. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) Any person certified under this Act, shall keep a record of each well constructed, altered or sealed after the effective date of this Act, and shall furnish a signed copy of such record to the cabinet within thirty (30) days after the completion of the construction or alteration. A copy of the record shall be furnished to the property owner by the driller within thirty (30) days of completion of the well. Each record required under this section shall be in a form prescribed by the cabinet and shall show:

(a) The name and address of the owner of the well and the persons constructing or altering the well;

(b) A site map with distances from any major roads, intersections, septic tank drain fields and permanent structures;

(c) The dates of commencement and completion of the construction or alteration of the well;

(d) The depth, diameter, and type of casing;

(e) The kind of joint couplings;

(f) Information on screens and type of completion;

(g) The discharge in gallons per minute and the shut-in pressure in pounds per square inch of a flowing well;

(h) The static water level with reference to the land surface and estimation of well yield, and the drawdown with respect to the amount of water pumped per minute;

(i) The kind, nature, thickness and water-bearing capacity of the material in each stratum penetrated, with at least one (1) entry for each change in lithology;

(j) The type and amount of disinfectant used and the date of disinfection;

(k) The type, capacity and depth of the permanently installed pump; and

(l) Any other information requested by the cabinet.

(2) In the event that pump installation is not made by a certified driller who is also a certified pump installer, the certified pump installer must report the required pump information within thirty (30) days of installation of the permanent pump.

(3) Where the well is for potable use the well driller shall be responsible for having the well tested for pathogenic bacteria and turbidity and the initial disinfection of the well. The driller shall provide the well

owner, the local health department, and the cabinet with the written results of any and all testing and a written assurance that the well has been properly disinfected, within thirty (30) days of well completion.

(4) A copy of the record shall be furnished by the cabinet to the Kentucky geological survey and to the local health department.

SECTION 10. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The secretary, upon recommendation of the board, shall establish by regulation a system of fees, provided that the fees shall not exceed reasonable costs of administering the certification, certificate renewal, testing, inspection, certificate suspension and revocation activities provided for in this Act. All fees obtained under this program shall be deposited in a trust and agency account for the sole use of the board and the cabinet in administering the certification program, and shall not become part of the general fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

All water well drillers and pump installers, before doing any water well or pump installation related work in Kentucky, must comply with this Act notwithstanding comparable state provisions in states other than Kentucky.

SECTION 12. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The cabinet may make such unannounced inspections as it deems necessary to determine compliance of certified individuals with the provisions of this Act. The cabinet shall also have the right to enter upon any and all property for the purpose of obtaining information about water well construction, whether idle, in use or abandoned.

SECTION 13. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any other person who is alleged to be in violation of any rule, regulation, order or certificate issued pursuant to this Act.

(2) No action may be commenced prior to sixty (60) days after the plaintiff has given notice in writing of the violation to the cabinet or if the state has commenced and is diligently prosecuting a civil action to require compliance with the provisions of this Act. However, in any such action, any person may intervene as a matter of right.

(3) Any action respecting a violation of this Act or the regulations thereunder may be brought only in the circuit court of the county in which the water well drilling or pump installing operation complained of is located.

(4) In any action under this section, the cabinet, if not a party, may intervene as a matter of right.

(5) The court, in issuing any final order in any action brought pursuant to subsection (1) of this section, may award costs of litigation, including attorney and expert witness fees, to any party, whenever the court determines such award is appropriate.

(6) Nothing in this section shall restrict any right which any person may have under any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief.

(7) Any person who is injured in his person or property through the violation of any rule, regulation, order, or determination issued pursuant to this Act may bring an action for damages, including reasonable attorney and expert witness fees, in the circuit court of the county in which the water well or water pump-related activity complained of is located.

Section 14. KRS 223.991 is amended to read as follows:

(1) Any person, firm or corporation (municipal or private) who violates any provisions of KRS 223.160 to 223.220 or the rules and regulations adopted thereunder shall be liable to a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day of operation in violation of KRS 223.160 to 223.220 or of the rules and regulations adopted thereunder. In addition, the person, firm or corporation may be enjoined in the manner set forth in KRS Chapter 224 from continuing such violations.

(2) Any person who fails to comply with the certification provisions of this Act in violation of Section 2 of this Act shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for each day during which such violation continues, and in addition may be concurrently enjoined from any such violations as hereinafter provided.

(3) Any person certified under the provisions of this Act, who violates this Act or fails to perform any duties imposed by these sections, or who violates any determination, rule, regulation or order or determination of the secretary promulgated pursuant thereto may be subject to proceedings for certificate suspension or revocation, or non-renewal of a certificate.

(4) It shall be the duty of the cabinet to institute an action for the recovery of the penalties herein

provided for, and to bring an action for an injunction against any person violating or threatening to violate the certification provisions of this Act or violating or threatening to violate any order or determination of the cabinet promulgated pursuant thereto. In any such action any findings of the cabinet shall be prima facie evidence of the fact or facts found therein.

(5) Any person found guilty of violating the certification provisions of this Act or the rules and regulations adopted thereunder shall be guilty of a misdemeanor and may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation or imprisoned not more than thirty (30) days or both. Each day the violation continues shall be considered a separate violation.

(6) Civil and criminal penalties shall not be deemed mutually exclusive.

(7) All enforcement proceedings shall be conducted pursuant to KRS Chapter 224, and all certificate revocation and enforcement actions shall be subject to the administrative and judicial procedures contained in KRS Chapter 224.

The Committee Substitute to **HB 263** is as follows:

HB 263, AN ACT relating to water well construction practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky water well certification board;

(2) "Cabinet" means the natural resources and environmental protection cabinet;

(3) "Certificate" means a certificate of competency issued by the secretary stating that the water well driller has met all the requirements for the appropriate classification set forth in this Act or by regulation;

(4) "Person" means an individual, corporation, partnership, association, municipality, state and federal government, or other public body or other legal entity, or any officer, employee or agent of any of the foregoing.

(5) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(6) "Water well" or "well" means any excavation or opening in the surface of the earth that is drilled cored, bored, washed, driven, jetted or otherwise constructed when the actual or intended use in whole or part of such excavation is the removal of water for any purpose, including but not limited to culinary and household purposes, animal consumption, food manufacture, use of geothermal resources for domestic heating purposes and industrial, irrigation and dewatering purposes, but not including wells to be used for watering stock or general farmstead use;

(7) "Water well driller" means a person who is qualified to engage in the drilling, alteration, or repair of a water well as defined in this chapter;

SECTION 2. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

It is unlawful for any person as defined in this Act, to commercially construct, alter or repair a water well without first having obtained a valid certificate as provided for in this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The Kentucky water well certification board is established. The board shall recommend to the secretary administrative regulations to govern examinations; hearings to suspend, revoke or deny a certificate; and any other duties prescribed by this Act. The subject matter of such examinations shall include, in addition to any standardized section, testing for knowledge of local laws and regulations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) The board shall be appointed by the governor upon the advice of the secretary after soliciting recommendations of interested parties. All members of the board shall be residents of the Commonwealth. The board shall be composed of the following:

(a) A driller who is an active member of both the national water well association and the Kentucky water well association and whose business is actively involved in drilling water wells. This member shall serve for an initial term of three (3) years;

(b) A member who is a representative of the cabinet who shall serve as the executive secretary and treasurer of the board and shall be responsible for maintaining records, to serve for an initial term of three (3) years;

(c) A member who is a hydrogeologist or hydrologist from the Kentucky geological survey to serve

for an initial term of two (2) years;

(d) Three (3) members who are water well drillers, each representing a different geographic region within the Commonwealth, to serve for an initial term of two (2) years; provided that of the drillers selected, two (2) must be certified to install wells using the cable tool drilling method, and one (1) must be certified in the use of rotary method; and

(e) A member from the public at large, who shall not be in any way connected with a water well business, to serve for an initial term of two (2) years.

(2) Upon the expiration of the respective terms, each successor shall be appointed in the same manner as the predecessor for a term of three (3) years.

(3) At the first meeting of the board held in each calendar year, the board shall elect a chairperson who shall serve for one (1) year. A majority of members shall decide upon rules of procedure.

(4) The board shall hold as many meetings a year as are necessary to effectuate the purpose of this Act, but the board must hold at least quarterly meetings. Notice of a meeting shall be sent to each member at least ten (10) days prior to the meeting. Five (5) members shall constitute a quorum. Rules of procedure adopted by the board may provide for such additional meetings as are necessary.

(5) The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties.

SECTION 5. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall:

(a) Fix and announce dates for the examinations;

(b) Prepare and make available forms for application for a water well driller certificate;

(c) See that all examinations for certificates are graded;

(d) Prepare and issue certificates to those entitled thereto;

(e) Upon recommendation of the board, promulgate rules and regulations as are necessary to carry out the purposes of this Act, including the conducting of examinations and the suspension and revocation of certificates;

(f) Inspect and investigate water wells to ensure compliance with the provisions of this Act;

(g) Maintain and publish annually a register showing the names and addresses of certified water well drillers and distribute a copy of same to each certified individual free of charge;

(h) Maintain under the control of the executive secretary and treasurer a record showing:

1. The names and addresses of all certified individuals under this Act;

2. The dates of issuance and renewal of all certificates;

3. The date and substance of the charges set forth in any complaint for suspension or revocation of any certificate;

4. The date and substance of all petitions for reinstatement of certificates; and

5. The final order on such complaints and petitions.

(2) Upon written request the cabinet shall make the information set forth in paragraph (h) of subsection (1) of this section available to any person so requesting.

(3) The cabinet may conduct training to further the provisions of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) Application for a certificate, or for renewal thereof, shall be made to the cabinet in writing under oath or affirmation, upon forms prescribed and furnished by the cabinet. Such applications shall include:

(a) The name and address of the applicant;

(b) Prior experience, if any, in the field for which the applicant is applying;

(c) Any other information that the cabinet deems necessary in order to carry out the provisions of this Act;

(d) All past and current licenses held in this or any other state relating to the provisions of this Act.

(2) The cabinet may issue a water well driller certificate to any applicant who meets all of the provisions of this Act and:

(a) Is at least eighteen (18) years of age; and

(b) Is a citizen of the United States or has declared an intention to become a citizen of the United States; and

(c) Has worked for two (2) years under the supervision of a certified water well driller; for those in business on the effective date of this Act, the two (2) year experience requirement shall be deemed satisfied if the driller has engaged in water well drilling, over the two (2) previous years; and

(d) Has a passing grade on the examination as determined by the cabinet.

(3) Those persons in business for two (2) years on the effective date of this Act shall be deemed exempt from the examination requirements of this chapter and shall apply for and obtain a certificate by July 1, 1985.

(4) The term of each certificate shall be one (1) year. Each certificate shall carry with it the right to

successive renewal upon application and payment of fee, unless the board finds that the certified individual has failed to comply satisfactorily with this Act or the regulations promulgated pursuant to this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) Each application for issuance or renewal of a certificate shall be accompanied by a proof of liability coverage for bodily injury of at least twenty-five thousand dollars ($25,000) per person with an aggregate of at least fifty thousand dollars ($50,000) and for property damage of at least fifty thousand dollars ($50,000) per accident with an aggregate of at least one hundred thousand dollars ($100,000). Notice shall be given by certified mail to the executive secretary and treasurer of the board by the insurer upon lapse of coverage by the insurance company for any reason, including nonpayment of premiums.

(2) Prior to the issuance of a driller certificate, proof of a surety bond must be filed along with the application for a certificate. The penal sum of this bond shall be five thousand dollars ($5,000), with the applicant designated as the principal obligor and the Commonwealth designated as the obligee. The surety may be called on by the secretary if the certified individual knowingly or wilfully violates any administrative regulation promulgated pursuant to this Act or provision of this Act. Notice of lapse of coverage for any reason by the surety shall be given by certified mail to the executive secretary and treasurer of the board by the surety.

SECTION 8. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The secretary, upon recommendation of the board, shall promulgate administrative regulations establishing standards of practice for water well construction. The secretary shall utilize the manual of water well construction practices as the guidance document in the development of standards and regulations. These standards and regulations shall be proposed within one (1) year of the effective date of this Act and shall be included as a component of the certification program.

SECTION 9. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) Any person certified under this Act, shall keep a record of each well constructed, altered or sealed after the effective date of this Act, and shall furnish a signed copy of such record to the cabinet within thirty (30) days after the completion of the construction or alteration. A copy of the record shall be furnished to the property owner by the driller within thirty (30) days of completion of the well. Each record required under this section shall be in a form prescribed by the cabinet and shall show:

(a) The name and address of the owner of the well and the persons constructing or altering the well;

(b) A sketch showing the distance from any road, intersection, septic tank drain fields and permanent structures;

(c) The dates of commencement and completion of the construction or alteration of the well;

(d) The depth, diameter, and type of casing;

(e) The kind of joint couplings;

(f) Information on screens and type of completion;

(g) The discharge in gallons per minute and the shut-in pressure in pounds per square inch of a flowing well;

(h) The static water level with reference to the land surface and estimation of well yield, and the drawdown with respect to the amount of water yielded per minute;

(i) The kind, nature, approximate thickness and water-bearing capacity of the material in each stratum penetrated that shows the presence of water, with at least one (1) entry for each change in rock types; and

(j) The type and amount of disinfectant used and the date of disinfection.

(2) Where the well is for potable use the well driller shall be responsible for having the well tested for fecal coliform and the initial disinfection of the well. The driller shall provide the well owner and the cabinet with the written results of any and all testing and a written assurance that the well has been properly disinfected, within thirty (30) days of well completion.

(3) A copy of the record shall be furnished by the cabinet to the Kentucky geological survey.

SECTION 10. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The secretary, upon recommendation of the board, shall establish by regulation a system of fees, provided that the fees shall not exceed reasonable costs of administering the certification, certificate renewal, testing, inspection, certificate suspension and revocation activities provided for in this Act. All fees obtained under this program shall be deposited in a trust and agency account for the sole use of the board and the cabinet in administering the certification program, and shall not become part of the general fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

All water well drillers, before doing any water well related work in Kentucky, must comply with this Act notwithstanding comparable state provisions in states other than Kentucky.

SECTION 12. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

The cabinet may make such unannounced inspections as it deems necessary to determine compliance of certified individuals with the provisions of this Act. The cabinet shall also have the right to enter after written notice upon any and all property for the purpose of obtaining information about water well construction, whether idle, in use or abandoned.

SECTION 13. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

Any person who is injured in his person or property through the violation of any rule, regulation, order, or determination issued pursuant to this Act may bring an action for damages, including reasonable attorney and expert witness fees, in the circuit court of the county in which the water well related activity complained of is located.

Section 14. KRS 223.991 is amended to read as follows:

(1) Any person, firm or corporation (municipal or private) who violates any provisions of KRS 223.160 to 223.220 or the rules and regulations adopted thereunder shall be liable to a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day of operation in violation of KRS 223.160 to 223.220 or of the rules and regulations adopted thereunder. In addition, the person, firm or corporation may be enjoined in the manner set forth in KRS Chapter 224 from continuing such violations.

(2) Any person who fails to comply with the certification provisions of this Act in violation of Section 2 of this Act shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for each day during which such violation continues, and in addition may be concurrently enjoined from any such violations as hereinafter provided.

(3) Any person certified under the provisions of this Act, who violates this Act or fails to perform any duties imposed by these sections, or who violates any determination, rule, regulation or order or determination of the secretary promulgated pursuant thereto may be subject to proceedings for certificate suspension or revocation, or non-renewal of a certificate.

(4) It shall be the duty of the cabinet to institute an action for the recovery of the penalties herein provided for, and to bring an action for an injunction against any person violating or threatening to violate the certification provisions of this Act or violating or threatening to violate any order or determination of the cabinet promulgated pursuant thereto. In any such action any findings of the cabinet shall be prima facie evidence of the fact or facts found therein.

(5) Any person found guilty of violating the certification provisions of this Act or the rules and regulations adopted thereunder shall be guilty of a misdemeanor and may be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation or imprisoned not more than thirty (30) days or both. Each day the violation continues shall be considered a separate violation.

(6) Civil and criminal penalties shall not be deemed mutually exclusive.

(7) All enforcement proceedings shall be conducted pursuant to KRS Chapter 224, and all certificate revocation and enforcement actions shall be subject to the administrative and judicial procedures contained in KRS Chapter 224.

HB 514, AN ACT relating to surface mining and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.032 is amended to read as follows:

(1) In case of refusal to obey a subpoena issued to any person, any circuit court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to appear before the cabinet, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(2) Any person aggrieved by a final order of the cabinet may obtain a review of the order by filing in the Franklin Circuit Court, within thirty (30) days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the cabinet, and thereupon the cabinet shall certify and file in court a copy of the record before the cabinet, including therein all pleadings, orders, documentary exhibits and the stenographic transcript of the testimony taken before the cabinet. When these have been filed, the court shall have exclusive jurisdiction to affirm, modify, enforce or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the cabinet or there were reasonable grounds for failure to do so. The findings of the cabinet as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the

court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearings before the cabinet, the court may order that additional evidence be taken before the cabinet in such manner and upon such condition as the court may consider proper. The cabinet may modify its findings as to the facts, by reason of the additional evidence so taken; and it shall file any modified or new findings with the court, which if supported by substantial evidence shall be conclusive, and any recommendation for the modification or setting aside of the original order. The commencement of the proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the cabinet's order. An appeal may be taken from the judgment of the Franklin Circuit Court to the Court of Appeals on the same terms and conditions as an appeal is taken in any civil action.

(3) In the case of a proceeding to review any order or decision issued by the secretary under this chapter pertaining to surface coal mining operations, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

(a) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(b) The person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(c) Such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

Section 2. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the cabinet may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the cabinet and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The cabinet for natural resources and environmental protection shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight-month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the cabinet under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the cabinet within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) [~~a~~] ten percent (10%) or more *of any class of voting stock* [~~interest~~] of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, P.L. 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three-year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or such other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or such other map acceptable to the cabinet meeting the requirements of the subsections below. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) below, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners on the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a

certification by a duly authorized official of the cabinet of transportation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the cabinet. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the penal sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the cabinet. In determining the amount of the bond the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where the circumstances are such as to warrant an exception, the cabinet, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the cabinet shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the cabinet require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The cabinet shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The cabinet shall enforce this subsection consistent with KRS Chapter 350 except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(16) The cabinet shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require, for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.

(17) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided;
Prior to the approval of any renewal of permit the cabinet shall provide notice to the appropriate public authorities.

(18) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(19) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(20) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(21) Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of KRS Chapter 350, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 3. KRS 350.093 is amended to read as follows:

(1) As determined by regulations of the cabinet, time *and distance* limits shall be established requiring backfilling, grading and planting to be kept current, such that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation; provided however that the cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.

(2) *(a)* The cabinet may allow an operator to defer *the time criteria of* contemporaneous reclamation requirements on specified areas if the operator can demonstrate that said deferment is necessary to address at least one (1) of the following:

1.[~~(a)~~] Adverse condition including weather, labor and other conditions clearly beyond the operator's control;

2.[~~(b)~~] Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080;

3.[~~(c)~~] Coal marketing problems.

(b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. *The applicant has the burden in establishing the need for such deferment. The applicant must demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment.* Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but in no event

shall the aggregate deferral period exceed thirty (30) months, nor shall the deferral extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

(3) If the operator or other person desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for such purposes at which places it will not be necessary to backfill as herein provided for until such drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of such locations shall be described and designated on the map attached thereto; provided, that where the operator or other person wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.

(4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. Such bond releases shall be made in accordance with the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; such amount shall be retained for the period specified for operator responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from such soil surveys as may be required to be included in the permit application. Where a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the cabinet.

(c) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility. Provided, however, that no bond shall be fully released until all reclamation requirements of this chapter are fully met.

(5) Upon application by a permittee for total or partial bond release, the cabinet shall notify the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.

(6) (a) Upon receipt of the notification and request, the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution. The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within sixty (60) days from the filing of the request, if no public hearing is held pursuant to subsection (7) of this section, and if there has been a public hearing held pursuant to subsection (7) of this section, within thirty (30) days thereafter.

(b) If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve said release and allowing opportunity for a public hearing.

(7) Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

Section 4. KRS 350.250 is amended to read as follows:

(1) Any *person with an interest which is or may be adversely affected* [~~citizen of this Commonwealth~~] having knowledge that any of the provisions of this chapter or regulations adopted thereunder are not being enforced by any public officer or employe, whose duty it is to enforce such provisions of this chapter and regulations thereunder, may bring such failure to enforce the law to the attention of such public officer or employe. To provide against unreasonable and irresponsible demands being made, all such demands to

enforce the law must be in writing, under oath, with facts set forth specifically stating the nature of the failure to enforce the law. If such public officer or employe neglects or refuses for any unreasonable time but in no event longer than sixty (60) days after demand to enforce such provision, any such *person* [~~citizen~~] shall have the right to bring an action of mandamus in the circuit court of the county in which the operation which relates to the alleged lack of enforcement is being conducted; provided, that any action pursuant to this section may be brought immediately after a demand for enforcement when the violation or order complained of constitutes an imminent threat to the health or safety of the complaining *person* [~~citizen~~] or would immediately affect a legal interest of the complaining *person* [~~citizen~~]. The court, if satisfied that any provision of this chapter or regulation thereunder is not being enforced, shall make an appropriate order compelling the public officer or employe, whose duty it is to enforce such provision, to perform his duties, and upon failure to do so such public officer or employe shall be held in contempt of court and shall be subject to the penalties provided by the laws of the Commonwealth in such cases.

(2) The court having jurisdiction of a complaint made pursuant to subsection (1) of this section may in its final order award costs of litigation (including attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(3) Any person who is or may be adversely affected by the violation by any person of any rule, regulation, order or permit issued pursuant to this chapter may bring a civil action *for injunctive relief or for damages or both* (including reasonable attorney and expert witness fees) in the circuit court of the county in which the surface coal mining operation complained of is located. *Nothing in this subsection shall be construed to be a waiver of sovereign immunity by the Commonwealth.*

(4) In such action under this section, the cabinet, if not a party, may intervene as a matter of right.

Section 5. Whereas, the secretary of the interior set May 1, 1984, as the date by which the Commonwealth shall have enacted certain statutory revisions as a condition of primacy, an emergency is declared to exist and this legislation shall become validly enacted law when signed by the governor, and the provisions of this Act shall become operative simultaneously with their approval in the state's permanent regulatory program by the secretary of the interior pursuant to Public Law 95-87, the surface mining control and reclamation act of 1977.

HB 605, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

The department of mines and minerals shall not issue a permit under KRS 353.570 to drill or deepen a well until the applicant submits to the department a copy of a spill control plan approved by the natural resources and environmental protection cabinet. Such plan shall include appropriate containment or diversionary structures or equipment to prevent discharged oil from reaching any waters of the Commonwealth, as that term is defined in KRS Chapter 224. One (1) or more of the following preventive systems or its equivalent shall be used as a minimum:

(1) Dikes, berms or retaining walls sufficiently impervious to contain spilled oil;

(2) Culverting, gutters, or other drainage systems;

(3) Weirs, booms, or other barriers;

(4) Spill diversion ponds;

(5) Retention ponds;

(6) Absorbent materials;

(7) Blowout preventers; or

(8) Such combination of these methods as is necessary to assure that no discharged oil will enter any waters of the Commonwealth in the event of a blowout or other well failure.

The Committee Substitute to **HB 605** is as follows:

HB 605, AN ACT relating to oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

The department of mines and minerals shall not issue a permit under KRS 353.570 to drill or deepen a well until the applicant submits to the department a copy of a spill control plan. The approved plan shall be made a condition of the approved permit and shall be implemented by the permittee prior to commencement of the drilling activity. Such plan shall include appropriate containment or diversionary structures or equipment sufficient to prevent discharged oil from reaching any waters of the Commonwealth, as that term is defined in KRS Chapter 224. One (1) or more of the following preventive systems or its equivalent shall be used as a minimum:

(1) Dikes, berms or retaining walls sufficiently impervious to contain spilled oil;
(2) Culverting, gutters, or other drainage systems;
(3) Spill diversion ponds;
(4) Retention ponds;
(5) Blowout preventers; or
(6) Such combination of these methods as the department deems necessary to assure that no discharged oil will enter any waters of the Commonwealth in the event of a blowout or other oil-production or storage related failure.

The Committee on State Government reported **HB 46** with Committee Amendment attached thereto, **HB 323** with Committee Substitute attached thereto, and **HB 346** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 2 to **HB 46** is as follows:

Amend printed copy of **HB 46,** page 1, line 13, after the word "*navigation*" by inserting a comma ","; and

On page 1, line 13, after the word "*navigation*" by deleting the word "*aircrafts*" and adding the word "*aircraft*" in lieu thereof; and

On page 2, line 1 after "*(f)*" by deleting lines 1, 2, 3, and 4 in their entirety; and

On page 2, line 5, by deleting "*(g)*"; and

On page 9, line 12, after the "(8)" by removing the bracket and strikethroughs; and

On page 9, line 14, after the "(9)" by removing the bracket and strikethroughs.

The Committee Substitute to **HB 323** is as follows:

HB 323, AN ACT relating to employment skills training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

(1) In order to provide displaced workers with the opportunities necessary to prepare them for employment in demand occupations and to facilitate rapid adjustments to meet changing economic and labor market needs, there is hereby established the Kentucky economic adjustment team which shall consist of seven (7) members. The members are the governor of the Commonwealth or his designated representative, who shall serve as chairperson, the commissioner of manpower services or his delegate, the commissioner of commerce or his delegate, the commissioner of labor or his delegate, the commissioner of agriculture or his delegate, the superintendent of public instruction or his delegate, and the executive director of the council on higher education or his delegate.

(2) For purposes of this Act, "displaced worker" shall mean a worker who has been terminated or laid off or who has received a notice of termination or layoff from employment as a result of a plant closing, a plant relocation, or a permanent reduction in operations.

(3) The Kentucky economic adjustment team shall be established as a committee of the state job training coordinating council, created by executive order 83-527 dated June 3, 1983 in accordance with 29 U.S.C. 1532 et seq.

SECTION 2. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS

FOLLOWS:

Education and training programs undertaken for displaced workers pursuant to this Act shall build upon existing delivery systems and not unnecessarily duplicate or compete with current vocational courses and existing employment and training programs. To the maximum extent feasible, this program shall be undertaken through coordination and efficient utilization of existing federal and state financial resources. In addition, nothing shall prohibit the Kentucky economic adjustment team from accepting any and all donations, grants, bequests, and devises, conditional or otherwise, of money, property, service, or other things of value which may be received from the United States, or any agency thereof, any governmental agency, an institution, person, firm or corporation, public and private, to be held, used or applied solely for the purposes specified in this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

The responsibilities of the Kentucky economic adjustment team shall include, but not be limited to the following:

(1) Seeking the participation and advice of individuals representative of local government, business, and labor in fulfilling its responsibilities. The advice of these knowlegeable community leaders shall be drawn upon to assure effective assistance by the state responsive to particular community needs and circumstances.

(2) Assisting, upon the request of local communities, employers, or employe representatives, in marshalling available state and federal resources to aid workers and communities affected by major plant closures and to foster long-term, continuing economic vitality, industrial growth, and job opportunities.

(3) Providing on-site assistance when such on-site assistance is agreeable with the employer to displaced workers in such areas as job counseling and testing, job search assistance, placement services, unemployment insurance eligibility, and training and education opportunities.

(4) Overseeing the collection of data and preparation of economic analyses and reporting intended to provide better and more detailed assessments of future trends within the industrial, commercial, and agricultural sectors of the economy.

(5) Studying and making recommendations to the legislative research commission regarding changes needed in current federal and state statutes and programs in order to minimize harmful consequences of plant closures and promote rapid reemployment of workers and revitalization of communities.

(7) Cooperating with all other state, federal and local agencies, departments, and commissions as is necessary to carry out its responsibilities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

Employment training, assessment, job search assistance, and placement programs and services authorized pursuant to this Act shall include, but not be limited to all of the following:

(1) Services necessary to assist displaced workers in identifying and obtaining reemployment, including placement in jobs to which their pre-existing skills are transferable. These services shall include, but need not be limited to all of the following:

(a) Analysis and assessment of skills required for occupations in high demand in the local or surrounding labor markets and in which there is not a surplus of qualified applicants.

(b) Job search assistance, including the following:

1. Provision of labor market information.

2. Training in skills necessary to identify job openings and perform effective job seeking.

3. Teaching of self-help techniques included in securing and retaining new employment.

4. Identifying methods for determining occupations to which pre-existing skills can be transferred.

(2) Counseling and support services needed by displaced workers subsequent to a period of reduced employment or job loss, including but not limited to all of the following:

(a) Counseling and referral concerning available retraining programs.

(b) Information and referral regarding available financial services, including access to credit, home mortgage assistance, and assistance in securing transportation to employment opportunities in surrounding labor market demand areas.

(c) Referral to supportive services for displaced workers and their families which are necessary to deal with the adverse consequences of employment loss or reduction.

(3) Other activities, including those aimed at job training and job development, which are related to the activities of state and local governments and private industry.

SECTION 5. A NEW SECTION OF KRS CHAPTER 195 IS CREATED TO READ AS FOLLOWS:

Whenever possible, the services authorized by this Act shall be performed by the Kentucky economic adjustment team on site at or near the plant at which the workers, who have received notice of termination or layoff as a result of a plant closing, relocation, or permanent reduction in operations, are currently employed.

The Committee Amendment No. 3 to **HB 346** is as follows:

Amend printed copy of **HB 346,** page 4, line 2, after the word "*department*" by inserting "*of revenue*";

And on page 4, line 3, after the word "*department*" by inserting "*of revenue, with cooperation of the department of vehicle regulation,*";

And on page 4, line 4, after the word "*information*" by inserting "*prescribed by KRS 186A.040(2)*";

And on page 4, line 5, before the word "*to*" by inserting "*and payment of property taxes*";

And on page 4, line 5, after the period, by inserting "*Upon receipt of such forms, the county clerk may verify the existence of the required insurance on the vehicle by consulting the AVIS data base in the manner prescribed in KRS 186.021(2)(a) or by consulting documents which satisfy the requirements of KRS 186.021(2)(b).*";

And on page 4, line 7, after the word "*department*" by inserting "*of revenue*";

And on page 5, after line 2, by adding the following:

"*(3) Upon registration of a newly purchased vehicle, whether new or used, a vehicle owner shall be deemed to meet the requirements of subsection (2) of this section in respect to the newly purchased vehicle if the AVIS data base shows that on the date of that purchase he owned another vehicle which was fully insured in compliance with KRS 304.39-080(5).*";

And on page 5, line 11, after the word "registration" by deleting "*and title*";

And on page 5, line 12, after "offices," by removing the brackets and strikethrough from "and certificates of title in Frankfort,";

And on page 8, line 8, after the word "*department*" by inserting "*of revenue*";

And on page 8, line 9, before the period by adding the words "*and property tax due upon said registration*";

And on page 8, line 9, after the period by adding the following language: "*In addition, the department of revenue, in cooperation with the department of vehicle regulation shall provide the form prescribed by KRS 186A.040(2) to permit renewal of registration, payment of property taxes and proof of insurance to be completed by mail.*";

And on page 8, line 10, after the first use of the word "*of*" by adding the words "*the appropriate registration fees, property taxes and*";

And on page 9, line 15, after "of" by inserting "*vehicle regulation*";

And on page 9, line 15, by placing an opening bracket in front of "insurance," by striking through "insurance" and by deleting the opening bracket in front of "~~is~~";

And on page 9, line 26, by deleting said line in its entirety;

And on page 10, lines 1-4 by deleting said lines in their entirety and inserting in lieu thereof: "*(2) The department shall provide in each renewal mailing an appropriate form to complete the motor vehicle renewal, payment of property taxes and proof of insurance. Such form shall consist of the make and model of each vehicle, registration, property tax and clerk's fee required for each vehicle, a system generated statement if motor vehicle insurance is not in force on a vehicle, the total cost to complete the transaction, the name and address of the county clerk handling the renewal.*";

And on page 10, line 5, by deleting the words "*In the event of multiple ownership of motor vehicles by an individual and a driver license expiration occurring silultaneously,*";

And on page 10, line 7, by deleting the word "*the*" and inserting the word "*The*" in lieu thereof;

And on page 10, line 8, after the word "*renewal*" by adding the words "*and property tax*";

And on page 10, by deleting lines 15-26 in their entirety and inserting in lieu thereof:

(1) Every authorized insurance company which provides insurance required by KRS 304.39-080(5) shall, on the effective date of this Act, furnish the department of vehicle regulation with information on each such contract it holds. This information shall be provided on magnetic media compatible with central computer hardware of the department of information systems, except that if the insurer has fewer than two hundred (200) policies in Kentucky, the commissioner of insurance may authorize the furnishing of this information in other forms. The information required by this subsection shall include:

(a) The name of the owner of each insured vehicle;

(b) A description of each vehicle, including the vehicle identification number, year, make, model name, and model number;

(c) Whether or not the vehicle is insured in compliance with KRS 304.39-080(5); and

(d) The name of the insurer.

(2) At least once per month thereafter, each insurance company which has provided information under subsection (1) shall inform the department of vehicle regulation of the cancellation or nonrenewal of any such contract. Any insurance company which contracts after the effective date of this Act to provide any insurance required by KRS 304.39-080(5) shall furnish the department of vehicle regulation with the information required in paragraphs (a) - (d) of subsection (1) and shall at least once per month thereafter provide that department with information on the cancellation or nonrenewal of each such contract.";

And on page 11, by deleting lines 1-4 in their entirety;

And on page 11, line 5, by deleting "*(2)*" and inserting in lieu thereof "*(3)*";

And on page 11, line 6, by deleting "*insurance*" and inserting in lieu thereof "*vehicle regulation*";

And on page 11, line 15, by deleting "*(3)*" and inserting in lieu thereof "*(4)*";

And on page 11, lines 18-21, by deleting the following: "*These regulations shall give insurers the option of providing the information required for county clerks in subsection (2) of this section directly to the AVIS data base on a real-time entry basis.*"

And on page 11, line 22, through page 30, line 22, by deleting those lines in their entirety;

And on page 30, line 23, Section 11 becomes Section 7;

And on page 30, line 25, by deleting the brackets and strikethrough around "(1)" and inserting immediately thereafter: "*Any insurer which fails to meet the reporting requirements of Section 6 of this Act shall be subject to the penalties of KRS 304.99-020.*"

And on page 30, line 25, before "The" by inserting "*(2)*";

And on page 31, line 7, after "furnished" by inserting "*to the department of vehicle regulation*";

And on page 32, after line 19, by inserting the following:

"SECTION 8. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All information, records or items of any kind or in any form required to be furnished by insurers under the provisions of this Act shall be kept confidential and shall not be disclosed by any person or entity for any purpose, except insofar as disclosure may be necessary to carry out the provisions of this Act. Any insurer or person aggrieved by a violation of this subsection by any entity or person shall have a right of action against such violator for injunctive relief, damages and punitive damages."

And on page 32, line 20, Section 12 becomes Section 9;

And on page 32, line 24, Section 13 becomes Section 10.

The Committee on State Government reported **HB 86, HB 372, HB 457, HB 489, HB 553, HB 628, HB 632, HB 640, HB 670** with Committee Amendment attached thereto, **HB 718**, and **SB 183** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 86, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

The commissioner shall prepare and submit to the board proposed rules for the classified service. Such rules shall have the force and effect of law, when approved by the board, after public notice and public hearing, and after filing with the legislative research commission in accordance with KRS Chapter 13 and procedures adopted thereunder. If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board. The rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the board, the commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(2) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the secretary of the department of finance. The plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service, and shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority[~~. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service~~];

(5) *For notice of all vacancies in the state classified service to be conspicuously posted in each agency for a period of ten (10) days. State employes desiring to apply for vacant positions shall contact the department and place their names on a job bank register. The department shall review each application to determine if the state employe meets the minimum qualifications for the vacant position. The list of eligible employes from the job bank register shall be sent by the department to the agency where the vacancy exists. Each eligible state employe shall be interviewed. First priority in hiring should be given to persons within the agency where the vacancy exists, next priority to other persons within the cabinet, next to others in state government, then to applicants without employment status. Decisions to select a particular person and to reject others shall be justified and documented, and the information kept on file for review and analysis by the department of personnel;*

(6)[~~(5)~~] For the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations.

Eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the board for a period not to exceed one (1) additional year;

(7)[~~(6)~~] For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience, or who have been guilty of infamous or disgraceful conduct; who are addicted to alcohol to excess or to narcotics, or who have attempted any deception or fraud in connection with an examination;

(8)[~~(7)~~] For the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(9)[~~(8)~~] For a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. Unless the appointing authority notifies the employe prior to the end of the probationary period that the employe's services are not satisfactory, the employe shall have status in the classified service. The notice shall be in writing and as provided by personnel rules;

(10)[~~(9)~~] For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(11)[~~(10)~~] For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(12)[~~(11)~~] For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(13)[~~(12)~~] For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;

(14)[~~(13)~~] For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employes and for the use of such methods of appraisal in personnel actions;

(15)[~~(14)~~] For lay-offs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employes so laid off, giving consideration in both lay-offs and reemployment to qualifications, performance records, conduct and seniority in service;

(16)[~~(15)~~] For imposition as disciplinary measures of a fine of not more than ten (10) working days' pay or for suspension from the service without pay for not longer than thirty (30) working days and for the manner of notification of the employe of the discipline and his right of appeal;

(17)[~~(16)~~] For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;

(18)[~~(17)~~] For establishment of a plan for resolving employe grievances and complaints;

(19)[~~(18)~~] For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in subsection (2) of KRS 18A.075;

(20)[~~(19)~~] For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

(21)[~~(20)~~] For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted;

(22)[~~(21)~~] For such other rules and administrative regulations not inconsistent with KRS 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

HB 372, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.361 is amended to read as follows:

(1) Nothing in this chapter shall apply or affect zoning regulations adopted pursuant to KRS chapter 183.

(2) Nothing in this chapter shall impair the sovereignty of the commonwealth of Kentucky over its political subdivisions. Any proposal affecting land use by any department, commission, board, authority, agency, or instrumentality of state government shall not require approval of the local planning unit. However, adequate information concerning such proposals shall be furnished to the planning commission by the department, commission, board, authority, agency, or instrumentality of state government. *If the state*

proposes to acquire, construct, alter, or lease any land or structure to be used as a penal institution or correctional facility, and the proposed use is inconsistent with or contrary to local planning regulations or the comprehensive plan for the area, then the secretary of the corrections cabinet, or his designee, shall notify, in accordance with KRS 424.180, the planning commission, the local governing body, who has jurisdiction over the area involved, and the general public of the state's proposals for the area, and he shall hold a public hearing on the proposals within the area at least ninety (90) days prior to commencing such acquisition, construction, alteration or leasing. A final report on the public hearing shall be submitted to the governor and members of the general assembly within twenty-five (25) days of the public hearing, and prior to commencing any construction, alteration, acquisition or leasing of such property or facilities.

SECTION 2. A NEW SECTION OF KRS 196.120 TO 196.150 IS CREATED TO READ AS FOLLOWS:

If the state proposes to acquire, construct, alter, or lease any land or structure to be used as a penal institution or correctional facility, and the proposed use is contrary to or inconsistent with local planning regulations or local comprehensive plans, then the secretary shall comply with the requirements of KRS 100.361(2). Failure to comply shall cause any transaction respecting such acquisition, construction, alteration, or lease to become null and void.

HB 457, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The position in state government of alcoholic beverage control field representative shall be a hazardous duty position for the purposes of KRS 61.592. The department shall make the employer contributions required for participation in the hazardous duty retirement program.

Section 2. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer *and the position in state government of alcoholic beverage control field representative*), active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705 or 78.510 to 78.852 or 16.510 to 16.652.

HB 489, AN ACT relating to precinct captains.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

A captain of a precinct shall be a qualified voter of the legislative district in which the precinct is located.

HB 553, AN ACT relating to the Kentucky retirement systems, as referenced in KRS 61.645.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5) or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(4) *Effective August 1, 1984,* the member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and *thirty-five hundredths percent (2.35%)* [~~twenty-five hundredths percent (2.25%)~~] of final compensation for each year of service credit. *The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the internal revenue code.*

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years.

(6) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS 16.510 to 16.652 a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 2. KRS 61.595 is amended to read as follows:

(1) *Effective August 1, 1984,* upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and *sixty-five hundredths percent (1.65%)* [~~*six-tenths* percent (1.6%)~~] of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than $240 multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the finance and administration cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph (c), and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512).

(e) The annual retirement allowance for a member of the Kentucky employes retirement system or county employes retirement system shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five cents (25) greater or less than the amount of the initial retirement payment.

HB 628, AN ACT relating to arson investigation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.275 is amended to read as follows:

(1) The *state fire marshal* [~~commissioner, bureau of state police,~~] may designate [~~officers and~~] employes of the *office of the state fire marshal* [~~bureau of state police~~] to investigate and enforce the provisions against arson and arson related offenses occurring within the state and such *employes,* [~~officers~~] when duly authorized by the *state fire marshal* [~~commissioner, bureau of state police~~], shall have the general powers of a peace officer, *but limited to such offenses only* [~~for the prevention of other offenses against the Commonwealth~~].

(2) Each arson investigator so appointed shall, before entering upon the discharge of his various duties, take an oath before a person authorized to administer oaths to faithfully discharge his duties, and the oath shall be subscribed by the person taking it and filed in the records of the department.

(3) Each of said persons shall give such bond as the *state fire marshal* [~~commissioner, bureau of state police,~~] may designate and with such surety as required by the *state fire marshal* [~~commissioner, bureau of state police,~~] conditioned upon faithful performance of his duties.

Section 2. All arson investigators and funds and equipment relating to arson investigation are hereby transferred from the Department of State Police to the Office of the State Fire Marshal.

HB 632, AN ACT relating to an earthquake safety council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

There is hereby established an earthquake safety council to develop policy recommendations for the reduction of earthquake hazards for the Commonwealth and to assist the coordination of earthquake hazards reduction activities of state agencies. The establishment of this council is deemed necessary because of predictions by the nuclear regulatory commission, the United States geological survey, the federal emergency management agency and the national science foundation that the New Madrid earthquake zone is a rift in the earth's crust with present stress capability of 7.6 Richter magnitude and that such an earthquake would result in great loss of life and considerable devastation in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

To the extent funds permit, the earthquake safety council shall:

(1) Suggest goals and priorities for earthquake hazards reduction;

(2) Recommend a consistent policy framework for seismic safety in the Commonwealth;

(3) Advise the governor and the Kentucky general assembly on matters relating to seismic safety;

(4) Collect and share information;

(5) Recommend education, training and assistance services;

(6) Review regulatory activities;

(7) Review proposed earthquake-related legislation, advise the governor and the Kentucky general assembly concerning such proposals, and recommend needed legislation;

(8) Represent the Commonwealth in regional and national earthquake hazards reduction organizations; and

(9) Perform such other duties for purposes of this Act as the governor or general assembly may prescribe.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) The earthquake safety council shall consist of fourteen (14) members who shall be residents of Kentucky and appointed by the governor. It is suggested that the membership consist of: a member of the university of Kentucky department of geology who is knowledgeable about research on the New Madrid fault, a member of the division of emergency and disaster services of western Kentucky, a representative of commercial river interests, a representative from the Kentucky league of women voters, a representative from the Kentucky farm bureau, a county judge/executive, a member from the Kentucky rivers coalition, a member from the cabinet for human resources, and director of the Kentucky division of the American National Red Cross, a member from the Kentucky society of architects, a member who serves as a board member of an electric corporation, a member of the governor's staff, and the administrative head of the division of disaster and emergency services.

(2) The members of the council shall serve four (4) year terms, except that seven (7) of the initial members shall be appointed for two (2) year terms. Members may be reappointed.

(3) No monies generated by the levy of a state tax shall be expended for expenses or per diem for members of the earthquake safety council, provisions of KRS 12.070 notwithstanding.

(4) The chairman of the council shall be appointed by the governor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The earthquake safety council shall meet at least every three (3) months and whenever called into session by the chairman, or at the request of the governor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Any funds received by the earthquake safety council shall be credited to a fund in the state treasury entitled the Earthquake Safety Council Fund. The fund may receive state appropriations, gifts, grants and federal funds. Money shall be expended from the fund by the earthquake safety council for purposes of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The earthquake safety council shall be attached to the division of disaster and emergency services in the department of military affairs, from which it shall receive administrative support to the extent that funds permit.

SECTION 7. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The earthquake safety council shall report annually to the governor and the general assembly on its findings and recommendations relating to earthquake hazards reduction.

HB 640, AN ACT relating to federal block grants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.350 is amended to read as follows:

As used in KRS 43.351 to 45.359 unless the context otherwise requires:

(1) "Block grant" means any federal block grant authorized by the federal Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) and any subsequent amendments thereto and any federal block grant authorized by the United States Congress after *July 1, 1983, and any federal funds distributed to the state in accordance with a statutory formula for use in a variety of activities within a broad functional area* [~~the effective date of KRS 45.351 to 45.359~~].

(2) "Commission" means the legislative research commission.

(3) "Designated *review* [~~legislative~~] body" means either:

(a) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review; or

(b) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review plus the interim joint committee on appropriations and revenue; or

(c) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review; or

(d) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review plus the senate and house standing committees on appropriations and revenue.

(4) "Federal administering agency" means any agency of the United States government administering any block grant.

(5) "State administering agency" means any agency of the Commonwealth submitting an application for block grant funding to the secretary or chief public official of the federal administering agency.

Section 2. KRS 45.351 is amended to read as follows:

(1) Every state administering agency shall submit any block grant application for the following fiscal year to the legislative research commission no less than ninety (90) days prior to the date of submission, as required by federal law, of the block grant application to the federal administering agency or no less than ninety (90) days before the state administering agency elects to submit the block grant application to the federal administering agency.

(2) Each state administering agency shall, upon request of the commission, make available to the commission all background data and supporting information related to each block grant application under review by the commission as will enable the commission to perform its functions in an informed and efficient manner.

(3) Each block grant application submitted by the state administering agency to the legislative research commission shall specify[~~:~~

~~(a) The programs and services to be provided with the block grant funds;~~

~~(b) The categories or characteristics of individuals to be served by the block grant programs and services;~~

~~(c) The data used by the state administering agency to determine~~] the proposed use and distribution of the block grant *and other* funds *to be allocated by the state administering agency to* [~~for all~~] programs and services; *and in addition, each application shall specify:*

(a) Programmatic and other requirements applicable to the receipt and expenditures of block grant and other funds, including state matching funds, specified in the application, and the restrictions imposed on the use of these funds;

(b) Whether the block grant and other funds included in the application have been included specifically in an appropriation or appropriation act enacted by the general assembly in anticipation of such application;

(c) Whether the funding is one-time, recurring or continuing;

(d) What costs will accrue to the state if federal funds diminish or are cut, and whether a budget reduction plan has been prepared for such contingency;

(e)[~~(d)~~] Whether the programs and services to be provided under the block grant are mandated by the laws of the Commonwealth;

(f)[~~(e)~~] Whether the programs and services to be provided under the block grant are those which the Commonwealth currently administers and funds;

(g)[~~(f)~~] The agencies expected to provide the services including whether such agencies are public or private or state or local;

(h)[~~(g)~~] The manner in which the allocation of funds will be targeted to need;

(i)[~~(h)~~] Geographic areas to be served by the programs and services;

(j)[~~(i)~~] Standards of eligibility for services;

(k)[~~(j)~~] The criteria and method that will be used by the state administering agency to distribute the block grant funds;

(l)[~~(k)~~] Whether and how block grant funds would be transferred from one (1) block grant to another *and the amount of the transfer*;

(m)[~~(l)~~] The proportion of the block grant funds to be used for administrative costs; and

(n)[~~(m)~~] Estimated receipt of federal funds applied for by block grant.

Section 3. KRS 45.3511 is amended to read as follows:

(1) State administering agencies shall not have continuation block grant application requests. Each application for a block grant shall be deemed a new application.

(2) No state administering agency shall *receive or expend* [~~submit~~] any block grant *or other funds included in a block grant* application to a federal administering agency unless *the application is found to be in compliance with the standards and criteria as prescribed in Section 5 of this Act, as well as the applicable federal and state laws* [~~approved by the legislative research commission as provided under KRS 45.351 to 45.359 or by the Kentucky general assembly~~].

Section 4. KRS 45.352 is amended to read as follows:

(1) The legislative research commission shall, within ten (10) days of receiving any block grant application from the state administering agency, provide for statewide notice, pursuant to KRS Chapter 424, of public hearings to be conducted by the *designated review body* [~~commission~~] for the purpose of receiving comments on the block grant application.

(2) The commission shall, no later than sixty (60) days prior to the submission of the block grant application to the federal administering agency, provide for a public hearing on each block grant application. The hearing may be held at such time, place and location as the commission shall determine. All hearings and deliberations of the commission pursuant to KRS 45.351 to 45.359 shall be electronically recorded. The recordings shall constitute a public record.

Section 5. KRS 45.353 is amended to read as follows:

(1) The commission shall refer each block grant application received to the designated *review* [~~legislative~~] body for review and consideration [~~of the state administering agency's proposed use and distribution of funds to be provided under the block grant~~].

(2) The designated *review* [~~legislative~~] body shall review and consider each block grant application according to the following *standards and* criteria, *and shall make an affirmative finding of fact that*:

(a) *Except as provided in paragraph (b) of this subsection, block grant and other funds specified in the application have been included in an appropriation or appropriation act enacted by the general assembly in anticipation of such application* [~~General fund moneys available in the Commonwealth to match federal financial participation provided under the block grant~~];

(b) *Any excess in the total amount of block grant funds sought over the total amount of such funds anticipated and included in an appropriation or appropriation act, has been included in a surplus expenditure plan approved by the general assembly* [~~The relationship of the block grant programs and services to programs and services mandated by the laws of the Commonwealth~~];

(c) *A budget reduction plan specifying programs and services to be eliminated or to be reduced in scope if federal funding diminishes or is cut, has been included* [~~The need for the programs and services funded under the block grant~~];

(d) *The budget reduction plan does not propose to increase the ratio of state funds to federal funds if federal funding diminishes, or is cut;* [~~The continuing fiscal cost to the Commonwealth should federal financial participation for the program cease subsequent to its acceptance by the Commonwealth~~];

(e) *Block grant and other funds to be provided under the application are fairly and equitably distributed among those programs, services or recipients eligible for block grant funding* [~~Whether the block grant program and services would duplicate or supplant existing programs and services funded by the private sector~~];

(f) *Block grant and other funds to be provided under the application are not to be used to fund programs or services that would duplicate or supplant existing programs or services funded by the private sector* [~~Whether the block grant includes programs and services which the Commonwealth currently administers and funds~~];

(g) *The intended uses of block grant and other funds specified in the application are in compliance with the applicable federal and state laws pertaining to such block grant funds* [~~The relative merit of the block grant when viewed against other available block grants~~; *and*

(h) *The amount of block grant and other funds to be retained by the state administering agency for administrative purposes does not exceed an amount allowable under federal law.* [~~Desires of the Commonwealth's citizenry as expressed during the respective block grant hearing;~~]

[~~(i) With regard to any block grant applied for, for which federal funds were received during the preceding year, the results of the commission's prior year review of the actual use and distribution of the block grant funds by the state administering agency; and~~

~~(j) Such other criteria as the designated legislative body shall deem necessary.~~]

Section 6. KRS 45.354 is amended to read as follows:

(1) No later than thirty (30) days prior to the state administering agency submission of each block grant application to the federal administering agency, the designated *review* [~~legislative~~] body shall advise the commission in writing of its *findings of fact on* [~~review and consideration of~~] each block grant application as provided under KRS 45.353.

(2) The commission shall within ten (10) days review the *findings* [~~report~~] of the designated *review* [~~legislative~~] body and make written *findings of fact* [~~comment~~] to the state administering agency *and the governor* regarding [~~the proposed use and distribution of funds to be provided under~~] each block grant application. *The findings of fact shall be based upon the standards and criteria as prescribed in Section 5 of this Act.*

Section 7. KRS 45.357 is amended to read as follows:

(1) The commission *or its designated review body* shall review the actual use and distribution of all block grant funds made available during the preceding year to any state administering agency.

(2) Any state administering agency receiving block grant funds shall, within thirty (30) days following December 31, 1982, June 30, 1983, and each six (6) months thereafter, submit to the commission a report for each block grant received to be known as the "block grant program status report."

(3) The block grant program status report shall show for the programs and services provided under each block grant for the preceding six (6) months the following:

(a) Appropriations, allotments, expenditures, encumbrances, and available balance.

(b) The level of service budgeted, defined in terms of objectives and beneficiaries.

(c) The level of services delivered during the period.

(d) Alternatives for improved service delivery.

(e) Any changes in service authorized or necessary as a result of unanticipated changes in clientele, resources, or for other reasons.

(f) An evaluation of results, including a description of measurements used.

(4) Staff assigned by the commission to review block grant applications and other block grant reports and documents submitted by state administering agencies shall be authorized to independently investigate and audit for the commission all matters pertaining to the application for and expenditure of federal block grant and other funds included in any block grant program administered by any state administering agency.

(5) The commission or its designated review body shall be authorized to subpoena any reports, or records or documents from any state agency regarding any block grant program administered by a state agency for the purposes of investigating or auditing such program.

Section 8. KRS 45.358 is amended to read as follows:

(1) There is hereby created a block grant legislative oversight fund which may be expended by the commission for the purpose of implementing and administering the provisions of KRS 45.351 to 45.359 *and 273.453.*

(2) Each state administering agency shall, to the extent permitted by federal law, withhold and place in the block grant legislative oversight fund one-fourth (1/4) of one percent (1%) of the federal funds made available under the block grant. The funds placed in the block grant legislative oversight fund shall not lapse to the general fund.

(3) The commission shall determine the actual cost to the commission of implementing and administering the provisions of KRS 45.351 to 45.359 *and 273.453* for each block grant under review. The commission shall notify each state administering agency in writing of the actual cost determined.

(4) The commission shall, for the purpose of implementing and administering the provisions of KRS 45.351 to 45.359 *and 273.453* for each block grant under review and as permitted by federal law, expend no more than one-fourth (1/4) of one percent (1%) of the federal funds made available under each block grant.

(5) The commission shall return to the applicable state administering agency any unexpended federal moneys placed in the block grant legislative oversight fund under this section.

Section 9. KRS 273.410 is amended to read as follows:

As used in KRS 273.405 to *273.453* [~~273.468~~], unless the context otherwise requires:

(1) "Commission" means the legislative research commission.

(2) "Community action agency" means a corporation organized for the purpose of alleviating poverty within a community or area by developing employment opportunities; by bettering the conditions under which people live, learn, and work; and by conducting, administering, and coordinating similar programs.

(3) "Designated *review* [~~legislative~~] body" means either:

(a) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review; or

(b) Any interim joint committee, as designated by the commission at any time when the general assembly is not in session, whose subject jurisdiction relates to the block grant under review plus the interim joint committee on appropriations and revenue; or

(c) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review; or

(d) Any standing committee, as designated by the committee on committees during any legislative session, whose subject jurisdiction relates to the block grant under review plus the senate and house standing committees on appropriations and revenue.

(4) "Federal administering agency" means any agency of the United States government administering any block grant.

(5) "Federal act" means the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, and any amendments thereto, as the federal act relates to community services block grants.

(6) "State administering agency" means any agency of the Commonwealth designated by the governor to apply for and administer funds made available under the federal act.

Section 10. KRS 273.415 is amended to read as follows:

(1) A community action agency shall be organized and shall operate subject to the provisions of KRS *273.405 to 273.453* [~~273.405 to 273.468~~]. To the extent KRS 273.405 to *273.453* [~~273.468~~] are inconsistent with the provisions of this chapter, the provisions of KRS 273.405 to 273.468 shall be controlling.

(2) A community action agency shall be organized and operate subject to the provisions of KRS 65.210 through 65.300 and KRS 273.405 to *273.453* [~~273.468~~].

Section 11. KRS 273.443 is amended to read as follows:

(1) Any funds made available under the federal act shall be used by each grantee of the funds:

(a) To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;

(b) To provide activities designed to assist low-income participants including the elderly poor:

1. To secure and retain meaningful employment;
2. To attain an adequate education;
3. To make better use of available income;
4. To obtain and maintain adequate housing and a suitable living environment;
5. To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment related assistance;
6. To remove obstacles and solve problems which block the achievement of self-sufficiency;
7. To achieve greater participation in the affairs of the community; and
8. To make more effective use of other programs related to the purposes of KRS 273.405 to *273.453* [~~273.468~~];

(c) To coordinate and establish linkages between governmental and other social programs to assure the effective delivery of such services to low-income individuals;

(d) To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community;

(e) To develop, promote or otherwise encourage economic development activities which result in assisting low-income persons to become economically productive members of their community;

(f) To provide education, counseling and technical assistance on compliance with equal opportunity legislation for individuals and community organizations, both public and private.

(2) In addition to required services and activities to be provided with funds made available under the federal act, these funds may be used to provide on an emergency basis for the provision of such supplies and services to meet immediate essential needs of low-income persons including the elderly poor.

Section 12. KRS 273.446 is amended to read as follows:

(1) The state administering agency shall annually grant community services block grant funds under the federal act to community action agencies designated by political subdivisions as provided under KRS 273.435 and 273.437.

(2) An allocation formula for community services block grant funds shall be devised by the state administering agency. The allocation formula shall be based on the 1981 federal fiscal year federal community services administration grantee based allocation and the incidence and severity of poverty throughout the Commonwealth. The formula shall be set forth in administrative regulation by the state administering agency.

(3) Any level of local match to be required by the state administering agency shall not exceed twenty percent (20%) of each community action agency's total annual allocation under the federal act. Community action agencies shall not be prohibited from using non-cash resources to meet any match requirement of the state administering agency.

(4) The services to be provided with funds made available under the federal act shall be determined and prioritized by each community action agency in accordance with the allowable services and intended beneficiaries as set forth under KRS 273.443.

(5) Community services block grant funds made available under the federal act shall be used in

accordance with the provisions set forth in KRS 273.441 and 273.443, *provided that a portion of such funds shall be applied for legislative oversight in accordance with KRS 45.358.*

(6) The state administering agency, governor or his designee may grant to community action agencies such other state and federal funds the purposes of which are in accordance with the provisions set forth in KRS 273.443.

(7) For such other state or federal program funds applicable to the services and activities set forth in KRS 273.443, the governor shall, upon a determination of community action agencies' capability for utilizing such funds in a manner so as to fulfill the purpose of those funds and to fulfill the policy set forth in KRS 273.405, give special consideration to utilizing community action agencies in implementing such programs.

Section 13. KRS 273.448 is amended to read as follows:

(1) The responsibilities and powers of the state administering agency shall be:

(a) To establish standards in accordance with applicable state and federal laws and regulations by which administrative, fiscal and programmatic effectiveness of the federal act in the Commonwealth shall be measured.

(b) To monitor and evaluate community action agencies' compliance with:

1. The standards provided under subsection (1)(a) of this section and as set forth in administrative regulations by the state administering agency;

2. The provisions of KRS 273.405 to *273.451* [~~273.468~~]; and

3. The provisions of the federal act.

(c) To receive and review annual independent audits of all funds received by community action agencies.

(d) To direct community action agencies to submit such reports, records or other information necessary to determine community action agencies' administrative, fiscal, and programmatic effectiveness in their use of funds made available under the federal act.

(e) To provide for training and technical assistance to the community action agencies.

(f) To serve as liaison between community action agencies and other state and federal agencies for the purposes of:

1. Increasing the awareness of state and federal agencies toward the needs of low-income persons;

2. Providing information regarding capabilities of community action agencies;

3. Mobilizing resources for utilization by community action agencies;

4. Promoting the services and activities of community action agencies; and

5. Developing, promoting, or otherwise encouraging means for private sector involvement in the services and activities of community action agencies.

(g) To develop annually a plan describing the intended use and distribution of the community services block grant under the federal act based on the provisions of KRS 273.446 (1), (2), (3) and (4). The plan shall include a provision for the administrative costs of the community action agencies. [~~The percentage of the total costs allocated for administrative purposes shall not exceed the percentage allowed in the preceding budget year unless such an increase is approved in accordance with the provisions contained in KRS 273.453 to 273.466.~~]

(h) To provide the commission and the designated review body all materials, information, reports and documents as provided by Sections 2 and 7 of this Act.

(2) The state administering agency's administrative costs for administering the federal act shall not exceed the limit contained in the federal act and except as otherwise provided under *Section 5 of this Act* [~~KRS 273.468~~].

Section 14. KRS 273.453 is amended to read as follows:

(1) The state administering agency shall submit any block grant application under the federal act for the following fiscal year to the legislative research commission no less than ninety (90) days prior to the date of submission, as required by federal law, of the block grant application to the federal administering agency. *The application and other material submitted to the commission shall conform to the requirements, standards and criteria prescribed in KRS 273.430 to 273.448 and Sections 2, 3 and 5 of this Act. The review and processing of the application shall be in conformance with the provisions of Sections 4, 5 and 6 of this Act.*

(2) The state administering agency shall submit annually an actual use and distribution report to the commission as provided by Section 7 of this Act. Furthermore, the state administering agency shall comply with the block grant status report requirements of Section 7 of this Act. [~~The state administering agency shall, upon request of the commission, make available to the commission all background data and supporting information related to the block grant application under the federal act under review by the commission as will enable the commission to perform its functions in an informed and efficient manner.~~

~~(3) The block grant application under the federal act submitted by the state administering agency to the legislative research commission shall specify:~~

~~(a) The programs and services to be provided with the block grant funds;~~

~~(b) The categories or characteristics of individuals to be served by the block grant programs and services;~~

~~(c) The data used by the state administering agency to determine the proposed use and distribution of the block grant funds for all programs and services;~~

~~(d) Whether the programs and services to be provided under the block grant are mandated by the laws of the Commonwealth;~~

~~(e) Whether the programs and services to be provided under the block grant are those which the Commonwealth currently administers and funds;~~

~~(f) The agencies expected to provide the services including whether such agencies are public or private or state or local;~~

~~(g) The manner in which the allocation of funds will be targeted to need;~~

~~(h) Geographic areas to be served by the programs and services;~~

~~(i) Standards of eligibility for services;~~

~~(j) The criteria and method that will be used by the state administering agency to distribute the block grant funds;~~

~~(k) Whether and how block grant funds would be transferred from one block grant to another;~~

~~(l) The proportion of the block grant funds to be used for administrative costs; and~~

~~(m) Estimated receipt of federal funds applied for by block grant.~~]

Section 15. KRS 48.160 is amended to read as follows:

Each branch, by budget unit, shall submit in its budget recommendation a request for funds reasonably necessary to match anticipated federal funds which may become available during the biennium. *The amount of anticipated federal funds shall also be specified.* These *matching* funds shall not be utilized for federal block grants as defined by the federal omnibus budget reconciliation act of 1981 (P.L. 97-35) and any subsequent amendments thereto, including federal block grants authorized after July 1, 1983, unless such block grant applications *are in compliance with the applicable federal and state laws, as well as the standards and criteria prescribed in Section 5 of this Act* [~~have been approved by the legislative research commission~~].

Section 16 KRS 65.060 is amended to read as follows:

As used in KRS 65.065 and 65.070, the term "district" shall mean and the provisions of KRS 65.065 and 65.070 shall apply to any board, commission or special district created pursuant to the following statutes: KRS 65.160, 65.162, 65.210 to 65.300, 65.510 to 65.650; KRS 66.610 to 66.650; KRS 74.010 to 74.416; KRS 75.010 to 75.260; KRS 76.005 to 76.210, 76.241 to 76.273, 76.274 to 76.279, 76.295 to 76.420, 76.600 to 76.640; KRS 77.005 to 77.305; KRS 80.262 to 80.610; KRS 91A.350 to 91A.390; KRS 96A.010 to 96A.230; KRS 104.450 to 104.680; KRS 107.310 to 107.500; KRS 108.010 to 108.070, 108.080 to 108.180; KRS 108A.010 to 108A.130; KRS 109.056, 109.059, 109.115 to 109.190; KRS 147.610 to 147.705; KRS 147A.050 to 147A.120; KRS 152.810 to 152.930; KRS 164.605 to 164.675; KRS 173.450 to 173.650, 173.710 to 173.800; KRS 175A.010 to 175A.990; KRS 183.132 to 183.160; KRS 184.010 to 184.300; KRS 210.460 to 210.480; KRS 212.720 to 212.760; KRS 215.080 to 215.390; KRS 216.310 to 216.360; KRS 220.010 to 220.613; KRS 249.510 to 249.631; KRS 262.100 to 262.660, 262.700 to 262.990; KRS 266.010 to 266.990; KRS 267.010 to 267.990; KRS 268.010 to 268.990; or KRS 273.405 to *273.453* [~~273.468~~].

Section 17. The following KRS sections are repealed:

45.355 Recommendations to legislative research commission by reviewing body.

45.356 Revision and resubmission of application -- Approval or disapproval.

273.456 Continuing application requests prohibited -- Approval of legislative research commission or general assembly mandatory.

273.458 Public hearings.

273.460 Review by designated legislative body.

273.462 Report of designated legislative body -- Review and recommendation of commission -- Effect of no action by commission.

273.464 Recommendations for change -- Resubmission -- Approval or disapproval.

273.466 Review of use of funds -- Biannual status reports.

273.468 Block grant legislative oversight fund.

HB 670, AN ACT relating to estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) KRS 344.030 notwithstanding, for the purposes of this section, "employer" shall mean the sponsor of and "employe" shall mean a member of a pension plan governed by the federal "Employe Retirement Income Security Act of 1974," and any member of a state pension plan or a pension plan of any unit of local government.

(2) Any employe who elects not to take a joint and survivor annuity or who selects a beneficiary other than the spouse if living, shall provide written notification to his or her spouse of such action at the time of election, and any time such election is changed prior to the annuity starting date. Notification shall clearly convey the fact that after the death of the retired employe, his or her spouse shall not be entitled to a survivor benefit. Acknowledgement of such notification shall be required by signature of the spouse, if possible. If acknowledgement by signature is not possible, then notice may be given by certified mail, return receipt requested. In the event that the location of the spouse is unknown, notice may be given by certified mail, return receipt requested, to the last known address of the spouse.

The Committee Amendment No. 1 to **HB 670** is as follows:

Amend printed copy of **HB 670**, page 1, line 9, by inserting after "*(2)*" the following: "*For*"; and

On page 1, line 11, by inserting after "*living,*" the following: "*the employer.*"

HB 718, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), *pretrial release officer,* active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(2) Each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.692 or 78.510 to 78.852 or 16.510 to 16.652.

SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

The position of pretrial release officer shall be considered as a hazardous duty position within the meaning of KRS 61.592 and the administrative office of the courts shall make the employer contributions *required for participation in the hazardous duty retirement program.*

SB 183, AN ACT relating to the corrections cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.070 is amended to read as follows:

The secretary of the corrections cabinet shall:

(1) Supervise and administer the Kentucky state reformatory, the Kentucky correctional institution for women, the Kentucky state penitentiary, *Northpoint Training Center,* the Luther Luckett correctional complex, other minimum security correctional institutions established and operated by the cabinet, or any divisions of those institutions, and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the secretary and the secretary of the finance and administration cabinet, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of prisoners between institutions.

(6) Approve the forfeiture or restoration of good time earned by prisoners during their term of confinement.

Section 2. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "State agency" means any department, board, commission or agency of the state government;

(2) "Cabinet" means the corrections cabinet;

(3) "Penitentiaries" includes the state penal institutions for males at Eddyville and LaGrange, *the Luther Luckett correctional complex,* the institution for women located in Shelby County, *and the minimum security facilities including, but not limited to, the Western Kentucky farm center, Roderer farm center, Frankfort career development center, Blackburn correctional complex, and Bell County forestry camp,* together with the branches thereof and any other similar institutions hereafter established. *Northpoint training center shall be a temporary penitentiary.*

Section 3. KRS 196.270 is amended to read as follows:

There shall be established and maintained within the corrections cabinet a centralized canteen operation which shall be incorporated and self-supporting. Each institution administered by the cabinet shall participate in the canteen operation. The directors of the canteen shall be as follows: the secretary, the commissioner of the department of adult institutions, the executive director of the office of administrative services, the *wardens* [~~superintendents~~] of the Kentucky state penitentiary, Kentucky state reformatory, *the Luther Lucket correctional complex, the Northpoint Training Center,* and Kentucky correctional institution for women, ex officio, and a *warden* [~~superintendent~~] from one (1) of the remaining correctional institutions elected at large by the *wardens* [~~superintendents~~]. All profits from the canteen, including the sale of handicrafts made by inmates to the general public, shall be used exclusively for the benefit of the inmates of the cabinet. The directors of the canteen are authorized to consolidate the assets of the existing canteens for this purpose and to employ such staff and inmates as are necessary to efficiently manage the canteen.

Section 4. The general assembly confirms Executive Order 83-293 establishing the Northpoint Training Center as a division in the department of adult correctional institutions of the corrections cabinet to the extent that the order is not otherwise confirmed by this Act.

Calendar

HB 379, HB 425, HB 501, HB 310, HB 492, HCR 18, HJR 58, HB 391, SB 118, HB 595, and **HB 439** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 69, SB 192, HB 34** with Senate Amendment, **HB 71.**

Orders of the Day

HB 558, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hines moved the adoption of the Committee Amendment No. 1 to **HB 558.** Agreed.

Representative Hines moved that **HB 558,** as amended, be passed.

On the roll call the vote was, yeas 93—Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenther, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 558, as amended, was passed.

Representative Hines moved the adoption of the Committee Title Amendment to **HB 558.** Agreed.

Representative LeMaster moved that the vote by which **HB 558,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 139, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Substitute to **HB 139.** Agreed.

Representative Little moved that **HB 139,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Head, Hines, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Harper, Layman.

HB 139, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 139,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HB 569, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Amendment No. 1 to **HB 569.** Agreed.

Representative Moberly moved that **HB 569,** as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 569, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 569,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 589 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bronger moved that **HB 589** be passed.

On the roll call the vote was yeas 92-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Yates. Nays 5-Allen, Fryman, Patrick, Todd, Turner.

HB 589 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 589** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended to act upon **HR 85**. Agreed.

Representative LeMaster moved the adoption of the following **HR 85**:

HR 85, A RESOLUTION adopting permanent rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and approval of the Journal.
4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
5. Report of Reference of Bills to Committees.
6. Report of Committees.
7. First Reading of Bills.
8. Second Reading of Bills.
9. Orders of the Day.
10. Motions, Petitions and Communications.
11. Announcements.
12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filing blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.

7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's Desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with LRC to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Conduct of Employes. All the constitutional employes of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employes are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employes. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employes performing such services shall be under the supervision of the Committee on Committees.

No officer or employe of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employes of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employes and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House.

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Education
8. Energy
9. Health and Welfare
10. Judiciary-Civil
11. Judiciary-Criminal
12. Labor and Industry
13. Natural Resources and Environment
14. State Government
15. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chairman in the preceding regular session must select for reappointment the committee he so chaired if he wishes to be considered for the chairmanship of that committee; if another selection is made, he shall not be reappointed chairman of the committee which he chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen (17) members to any one standing committee, except the Committee on Appropriations and Revenue and the Committee on State Government which shall each have not more than twenty-one (21) members. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. Agriculture and Small Business: matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the state fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. Appropriations and Revenue: matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. Banking and Insurance: matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the uniform commercial code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. Business Organizations and Professions: matters pertaining to professional licensing not assigned specifically to another committee; chambers of commerce; business development corporations; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships; trade practices.

5. Cities: matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. Counties and Special Districts: matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employes; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk; county employes' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. *Education:* matters pertaining to public primary, secondary and higher education; the state board of education; the state department of education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employes; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

8. *Energy:* matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; Utility Regulatory Commission and Energy Regulatory Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol.

9. *Health and Welfare:* matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; correctional penitentiaries; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

10. *Judiciary-Civil:* matters pertaining to contracts; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, District Courts, the Court of Appeals, and Circuit Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerk of courts; juries, attorneys; commissioners and receivers; and court reporters.

11. *Judiciary-Criminal:* matters pertaining to support of dependents; statutory actions and limitations; habeas corpus; witnesses; evidence; crimes and punishments; criminal procedure; civil rights; and juvenile matters.

12. *Labor and Industry:* matters pertaining to commerce not specifically assigned to another committee; industrial financing and development; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels, electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employes; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

13. *Natural Resources and Environment:* matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

14. *State Government:* matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the general assembly, its committees, officers and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; department of law; secretary of state; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the arts; the libraries; archives and records; public corporations; commonwealth attorney; circuit clerk; proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular

elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

15. Transportation: matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway safety law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; bill boards; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each.

1. Subcommittee on Development and Energy, Natural Resources, and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance, and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

Of the seven members of each such subcommittee four shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The remaining three members of each standing subcommittee shall be deemed a liaison subcommittee of the standing committee or committees from which they were appointed. A vice chairman of the standing committee from which such members were appointed shall act as chairman of the liaison subcommittee. The selection of such vice chairman shall be made by the Committee on Committees. If such three members have been appointed from more than one standing committee the Committee on Committees shall determine which standing committee vice chairman shall act as chairman of the liaison subcommittee.

The liaison subcommittee members of the standing subcommittee shall have full voting authority in all matters before the standing subcommittee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 44. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills, provided that the amendment as agreed upon shall pertain to the same subject matter as the original bill referred to the Committee on Conference. The conference report shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage. The question of consideration of the report of a conference committee or a free conference committee shall not be in order within one hour following distribution of copies of the report to the members of the House.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employes required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. Those members of the committee voting to report a bill must sign the committee report and the committee report shall only be signed in the committee room and while the committee is in session.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The Committee's report shall always be read before the minority report is read.

Rule 48. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets. The Legislative Research Commission staff shall see that all bills introduced conform with the Automated Legal Text Entry and Revision System method of preparation. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Rule 51. Introduction of Bills. Bills and resolutions may be introduced by filing them with the Bill Registry Clerk in the Clerk's office at any time the Clerk's office is open. Bills and resolutions introduced by filing them in the Clerk's office with the Bill Registry Clerk after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Bill Registry Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Note Required. A sponsor of a measure may at any time prior to the filing of a request for posting form require a fiscal analysis to be made by the Legislative Research Commission upon the same and a fiscal note attached thereto.

The chairman of the committee to which the measure has been referred may, at any time after a request for posting form is filed with the committee by the sponsor, determine that a fiscal analysis is required on any measure not carrying a fiscal note. The chairman upon such determination shall cause a fiscal analysis to be made by the Legislative Research Commission and a fiscal note attached prior to posting the measure for consideration.

After posting the measure a majority of the committee may determine that a fiscal analysis is required on any measure not already carrying a fiscal note and shall direct the same to be accomplished and fiscal note attached with all dispatch. A committee may consider any measure on the date for which it is posted even if it is determined by the committee on that date that a fiscal analysis is required, however, no final action shall be taken by the committee upon said measure until a fiscal note is presented to the committee and attached to the measure.

Any member proposing to amend from the floor a bill or resolution which carries a fiscal note or if the proposed amendment itself carries a fiscal implication, the member proposing the amendment shall cause a fiscal analysis of the amendment to be made and a fiscal note attached to the proposed amendment at the time of introduction. In the event an amendment is introduced without a fiscal note, any member may raise the question of fiscal implication to the amendment by a motion and by majority vote require a fiscal analysis to be made and a fiscal note attached to the amendment. If a fiscal analysis and note is required by the membership, action on the bill or resolution to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. A fiscal note required by the membership shall be filed and attached to the amendment prior to the convening of the session of the next legislative day. In the event it is impossible to complete the analysis and prepare a fiscal note before the convening of the session on the next legislative day, the Director of the Legislative Research Commission shall so advise the membership by letter and state a time in which the same can be completed and filed with the House.

If the Director of the Legislative Research Commission certifies that the fiscal note cannot be completed within the prescribed time, the amendment shall not be in order unless the members, by majority vote, determine either: (1) act on the amendment and the bill or resolution without the benefit of the fiscal note, or to (2) pass over the bill or resolution in the Orders of the Day and allow it to be retained in the Orders of the Day until the fiscal note is filed.

Rule 52A. Local Mandate Impact Statement. Any bill which relates to any aspect of local government or any service provided thereby shall be analyzed by the LRC for its fiscal impact upon local governments and if determined to contain a local mandate shall have a local mandate impact statement attached prior to final consideration.

No measure which contains a local mandate shall be placed in the Orders of the Day until the local mandate impact statement is attached unless the requirement of the statement has been waived by a vote of two-thirds (2/3) of all members of the House/Senate.

Any member proposing to amend from the floor a bill which contains a local mandate or if the proposed amendment itself contains a local mandate, shall cause a fiscal analysis of the amendment to be made and a local mandate impact statement attached to the proposed amendment. Until such time as the local mandate impact statement is prepared and attached to the amendment, action on the bill to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day.

Rule 53. Proposed Administrative Regulations. (1) Before committee consideration of any bill originating in the House, which contains the authority for any agency, board or political subdivision of state government to promulgate regulations, the bill shall have attached a copy of a statement of legislative intent for the bill, including a summary of guidelines to be followed in preparing regulations pursuant to the bill.

Every committee shall have the exclusive right to determine whether the summary submitted meets the requirements of this rule. The committee may waive the provisions of this rule by majority vote, and shall acknowledge on its committee report the receipt of and consideration of the matters submitted with the bill pursuant to this rule.

The purpose of the requirements of this rule is to inform the House of the general scope of the regulations authorized by the bill and to provide a permanent record of legislative intent; and pursuant thereto, when any bill subject to the provisions of this rule becomes law the Director of the Legislative Research Commission shall cause to be filed with the Administrative Regulation Review Subcommittee of the Legislative Research Commission the summary of the regulations submitted with the bill to be used by the Administrative Regulation Review Subcommittee when reviewing regulations promulgated pursuant to the bill. The Administrative Regulation Review Subcommittee shall use the material submitted with the bill to determine legislative intent.

Nothing contained in this rule shall preclude the promulgation of regulations differing from those filed or summarized and submitted with the bill.

(2) This amendment of the Rules of the House of Representatives shall apply only to bills introduced after February 5, 1980.

Rule 54. Rejected Administrative Regulations. When an administrative regulation has been referred by the Clerk to a standing committee of the House, the committee shall review the regulation and take such action as it deems appropriate. If the committee recommends rejection it must set forth in its report the reasons for its rejection which shall be for either of the following reasons, or both: (1) The administrative regulation does not conform to statutory authority. (2) It does not carry out legislative intent.

Unless the House and Senate committees both recommend rejection of the regulation in their committee reports and the committee reports are thereafter adopted by at least two-fifths of the members elected to each house, and a majority of the members voting, the regulation shall become effective.

When a House committee report recommending rejection has been adopted by the House as set forth above, the House clerk shall so notify the clerk of the Senate.

If both the Senate and the House have approved committee reports recommending rejection of a regulation, a report to that effect shall be signed by both clerks and sent to the promulgating agency and the regulations compiler. A copy of this report shall be on file in the office of the Clerk of the Senate and in the office of the Clerk of the House.

Proposed regulations that have been properly laid before the general assembly shall become effective upon sine die adjournment of the general assembly unless the general assembly in regular session shall disapprove the proposed regulation.

Rule 55. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 56. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 57. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) The vote on the Consent Orders shall be taken by use of the Electrical Voting System.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 59. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 60. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 61. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution and unless it complies with Rule 51 relative to fiscal analysis; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Rule 62. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff and so certified by the Clerk, endorsing thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

Rule 63. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross said amendments in the original copy of the House bill, attested by the Clerk, before delivering the bill to the Enrolling Clerk of the House. The Enrolling Clerk shall then cause the original bill as attested by the Chief Clerk and the safety copy of the bill as delivered from the Senate to conform to each other by typing in indelible typewriter ink or by writing in red ink the amendments engrossed in the original bill in the safety copy. In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy is available, the Enrolling Clerk may enroll such bill or resolution by typing the same on safety paper or by enrolling the same in long-hand.

The original bill or resolution and a printed copy upon safety paper in the exact form as finally passed shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 64. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 65. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study.

Rule 66. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted *en bloc* after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.

A resolution shall not be accepted for introduction if offered in lieu of a Legislative Citation.

VOTING

Rule 67. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House. No roll-call vote shall be started until two minutes after the warning chimes have been sounded.

Rule 68. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 69. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 70. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 71. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 72. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employes of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 73. Lobbying in the House Chambers. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Rule 74. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall conform to accepted public taste and shall contain no matter appealing to prurient interest or without redeeming social value. Such documents shall be delivered to the message room and shall upon direction of the clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of inspecting such material and seeing that no individual other than employes of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material found so distributed by unauthorized individuals shall be collected from the members' desk and treated as litter.

RULES

Rule 75. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 76. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

HR 85 was adopted by voice vote.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 825, by Representative List: AN ACT relating to cities.

HB 826, by Representative Cowan: AN ACT relating to insurance.

HB 827, by Representative Barrows: AN ACT relating to allotment of classroom units.

HB 828, by Representative Johnson and Holbrook: AN ACT relating to corporations.

HB 829, by Representative Brinkley: AN ACT relating to the exemptions from insurance premium surcharges.

HB 830, by Representatives Cyrus and Deskins: AN ACT enacting and entering into the Midwest Interstate Compact on Low-Level Radioactive Waste and declaring an emergency.

HB 831, by Representatives McBee and Donnermeyer: AN ACT relating to firefighters.

HB 832, by Representative Holbrook and Johnson: AN ACT relating to limitation of actions.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HJR 70.**

Transportation: **HB 789, HB 516, HB 539, HB 540, HB 468, HB 651, HB 672.**

Cities: **HB 768, HB 776.**

State Government: **SB 56.**

Motions, Petitions, and Communications (continued)

Representative Farrow moved that Floor Amendment No. 1 to **HB 330** be withdrawn. Agreed.

Representative Lile moved the adoption of the following Legislative Citation No. 82. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Pleasure Ridge Park High School Band and your excellent director, Mr. Timothy Healy, for your outstanding performance at the Jeffereson County Invitation Marching Band Contest. Your tireless efforts, great ambition and school loyalty proved most rewarding as your 76-member band was named "Grand Champion" and best Jefferson County Band of the 15 high schools that were in competition. You have brought honor and pride to your school, your community, and the Commonwealth of Kentucky as you earned an enviable reputation and distinguished yourselves in receiving this most noteworthy and coveted title.

This prestigious body salutes you for this great distinction, extending best wishes and much success in your future endeavors. (Sponsored by Representative Lile)

Representative Rattliff moved the adoption of the following Legislative Citation No. 83. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates you Kimberly O'Banion, the lovely daughter of Mr. and Mrs. David O'Banion of Taylor County, for recently being named the 1983 FFA State Champion in the contest sponsored by the Courier Journal and The Louisville Times. As a senior at Taylor County High School, you will receive the contest's top prize of a $500 U.S. Savings Bond. Being named top Future Farmer from over 2,000 members in Kentucky who entered the contest is especially noteworthy. This auspicious body extends our best wishes to you as you attend the 46th Farm Awards Luncheon in Louisville on March 3, where you will receive your award. We commend you for your laudable service as an Active Page during the 1984 session of the Kentucky General Assembly. You have flawlessly performed the duties for the legislative offices and leadership, you exhibited a sense of responsibility and an appreciation of the honor accorded you by Representative Herman Rattliff in nominating you for this position.

We salute you for the great distinction and honor that you have brought to your school, community, and the Commonwealth of Kentucky. (Sponsored by Representative Rattliff)

Representative Deskins moved the adoption of the following Legislative Citations Nos. 73 through 81. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Tony Casebolt, Captain of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Jim Kennan, Co-Trainer of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Roger Bartley, Co-Trainer of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Brad Fuller, a dedicated member of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Bill Linkenhoker, a dedicated member of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Dennis Phillips, a dedicated member of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Butch Runyon, a dedicated member of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Charles Runyon, a dedicated member of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Dave Williamson, a dedicated member of the Eastern/Kentland Mine Rescue Team of Eastern Coal Corp., Stone, Kentucky, for capturing the title of the 1983 National Mine Rescue Champion. The many hours of studying and practicing the technique of proper mine rescue was rewarded when you achieved the title by competing with 107 mine rescue teams from several states. Your humanitarian acts, so vital to the well-being of your fellowman, prove your ultimate concern and compassion. In the midst of great perils, you have made supreme sacrifices, always going beyond the call of duty, investing long hours and tireless efforts. The improved services resulting from your extensive training demonstrates your dedication and humanitarian spirit which have made your community and the Commonwealth of Kentucky a better place in which to live.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Deskins)

Representative Meyer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Meyer moved the adopted of the following **HR 79:**

HR 79, A RESOLUTION declaring June 23, 1984, as Ludlow Day.
WHEREAS, on May 5, 1984, the Ludlow Fire Department will be celebrating its 100th year of existence; and
WHEREAS, on this date, the Ludlow Fire Department Life Squad will celebrate 52 years of service to the community; and
WHEREAS, the fire department and its life squad are recognized as two of the oldest such organizations in the state as well as in the nation; and
WHEREAS, the city of Ludlow is honoring this historic occasion with a three-day celebration to be held June 22, 23, and 24; and
WHEREAS, this event will include parades, games and contests, and the exhibition of antique fire equipment and cars;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognize June 23, 1984, as Ludlow Day in Kentucky, in honor of the 100th anniversary of the Ludlow Fire Department.
Section 2. That the House of Representatives convey to its members the cordial invitation from the city of Ludlow that the members join them in celebrating this anniversary.
Section 3. That the House of Representatives notify Governor Martha Layne Collins of the heartfelt wish of the city of Ludlow that she, or a representative of her office, join them in honoring 100 years of service from their fire department on June 23, 1984, at 4 p.m.
Section 4. That the House of Representatives instruct the clerk to send a copy of this resolution to Governor Martha Layne Collins and to Paul D. Seibert, in care of Ludlow Fire Department, P.O. Box 122, Ludlow, Kentucky, 41016.

HR 79 was adopted by voice vote.

Representative Head moved the adoption of the following Legislative Citation No. 72. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors, recognizes, congratulates, envies, and extends heartfelt and warmest best wishes and regards to Mr. Taylor Mattingly on the grand occasion of his one hundredth birthday, March 3, 1984. As the father of four, grandfather of ten, great grandfather of twenty-two and the great, great grandfather of seven, Mr. Mattingly so well deserves the accolades and esteem so fondly accorded him on this most auspicious of his birthdays. Mr. Mattingly, the Kentucky House of Representatives and your fellow Kentuckians across the breadth of the Commonwealth salute you. (Sponsored by Representative Head)

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members have filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Allen, **HB 76;** Representative L. Clark, **HB 703;** Representative Endicott, **HB 76;** Representative Ford, **HB 76;** Representative Fryman, **HB 76;** Representative Maggard, **HB 76;** Representative Noland, **HB 76, HB 750;** Representative Robinson, **HB 76;** Representative Todd, **HB 76;** Representative Turner, **HB 76;** Representative White, **HB 33.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 69,** by Representative Williams:

Amend printed copy of **HB 69,** page 1, line 21, after "*KRS 186.574*" by adding "*upon payment of the fee referred to in subsection (4) of that section.*"

Floor Amendment No. 1 to **HB 391,** by Representative Seum:

Amend printed copy of **HB 391,** page 3, line 15 by placing brackets around the "(4)" and striking through the same and inserting "*(7)*" in lieu thereof; and

On page 3, line 22, by placing brackets around the "(5)" and striking through the same and inserting "*(8)*" in lieu thereof

Floor Title Amendment to **HB 404,** by Representative Richards:

Amend printed copy of **HB 404,** page 1, Title, by deleting "University of Kentucky Board of Trustees" and inserting the following in lieu thereof: "University Governing Boards"

Floor Amendment No. 1 to **HB 404,** by Representative Richards:

Amend printed copy of **HB 404,** page 4, after line 23, by adding the following:

"Section 2. KRS 164.320 is amended to read as follows:

(1) The board of regents for Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University and Northern Kentucky University shall each consist of eight (8) members appointed by the governor, one (1) member of the teaching faculty, and one (1) member of the student body of the respective university or college. [~~The members of the board shall select a chairman annually.~~]

(2) The initial terms of appointed members shall be for four (4) years, and until their successors are appointed and qualified. Whenever a term expires after July 15, 1980, the member appointed by the governor to fill the vacancy shall be appointed for a six (6) year term. Such appointments shall be made by the governor within thirty (30) days after the expiration of the term of each member. If the governor should fail to make any such appointment within thirty (30) days after the expiration of the term of any member, the remaining members of the board of regents of the particular university or college whose terms shall not have expired, shall make such appointment within sixty (60) days after the expiration of such term.

(3) Not more than two (2) appointed members of any board shall be residents of one (1) county; nor more than four (4) of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(5) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(6) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.

(7) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years *commencing July 1 following his election* [~~and until his successor is elected and qualified~~]. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of such board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for

original election.

(8) The student member shall be the president of the student body of the university during the appropriate academic year. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year or does not maintain his permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.

Section 3. KRS 164.330 is amended to read as follows:

Annually, [~~Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. The place of meeting shall be designated by the superintendent of public instruction. At this meeting~~] there shall be elected a *chairman,* vice-chairman and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses. The expenses shall be paid out of the funds of the university or college."

Floor Amendment No. 3 to **HB 484,** by Representative Heleringer:

Amend printed copy of **HB 484,** page 2, below line 10, by adding the following:

"Section 2. KRS 61.805 is amended to read as follows:

As used in KRS 61.805 to 61.850, unless the context otherwise requires:

(1) "Meeting" means all gatherings of every kind, regardless of where the meeting is held, and whether regular or special and information or casual gatherings held in anticipation of or in conjunction with a regular or special meetings;

(2) "Public agency" means any state legislative, executive, administrative or advisory board, commission, committee, policy making board of an institution of education or other state agency which is created by or pursuant to statute or executive order [~~(other than judicial or quasi-judicial bodies)~~]; any county, city, school district, special purpose district boards, public commissions, councils, offices or other municipal corporation or political subdivision of the state; any committee, ad hoc committee, subcommittee, subagency or advisory body of a public agency which is created by or pursuant to statute, executive order, local ordinance or resolution or other legislative act, including but not limited to planning commissions, library or park boards and other boards, commissions and agencies, *Court of Appeals and Supreme Court;*

(3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body*;*

(4) "Conference" means any gathering or meeting of two (2) or more judges of the Court of Appeals or justices of the Supreme Court, who meet to decide any case pending before their respective courts."

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) All conferences held by justices of the Supreme Court or judges of the Court of Appeals shall be subject to the provisions of KRS 61.805 to 61.850. The clerks of these courts shall post a notice at least two (2) days in advance of the holding of a conference. The parties to the actions to be discussed, the press and the general public shall be permitted to attend and observe, but not participate in, all proceedings. In the event of an emergency, the two-day notice requirement may be waived. However, in such event, all proceedings at the conference shall be taken down by a court reported or by cassette tape. Transcripts of the proceedings shall be filed with the case in the office of the clerk of the court and made available to public scrutiny.

(2) Any judge or justice who violates the provisions of subsection (1) of this section shall be subject to removal from office upon conviction. Charges may be filed against a judge or justice before the judicial retirement and removal commission by any aggrieved citizen. Any individual adversely affected by the decision of the commission may, within thirty (30) days from the date of that decision, appeal the decision to the circuit court of the county where the alleged violation occurred or where the aggrieved individual resides."

Floor Amendment No. 2 to **HB 595,** by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 595,** page 1, line 5, by deleting "*funds*" and substituting in lieu thereof "*medical facilities*";

And also on line 5, after the word "*the*" by inserting "*purpose of conducting research into or the*";

And on line 20, by adding: "SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any person who intentionally or recklessly violates KRS 311.715 shall be guilty of a Class A misdemeanor."

Floor Amendment No. 1 to **HB 628,** by Representative Morris:

Amend printed copy of **HB 628,** page 2, between lines 3 and 4 by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) The department of state police and the state fire marshal shall cooperate in investigations of arson and arson related offenses.

(2) The department of state police and the state fire marshal shall make their full resources available to each other in arson and arson related investigations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The state fire marshal and the department of state police shall cooperate in investigations of arson and arson related offenses.

(2) The state fire marshal and the department of state police shall make their full resources available to each other in arson and arson related investigations."

and on page 2, line 4, by deleting "2" and inserting in lieu thereof "4"

A meeting of the Committee on Judiciary-Civil was announced for fifteen minutes after adjournment.

Adjournment

Representative LeMaster moved that the House adjourn until 2 p.m., Thursday, March 1, 1984.

On the roll call the vote was yeas 62-Allen, Barrows, Bendl, Bennett, Blevins, Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dunn, Endicott, Farrow, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Harper, Hines, Holbrook, Holloway, R. Jones, Kenton, Layman, Lefevers, List, Little, Long, Lundergan, Mann, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomason, Todd, Turner, Van Horn, Williams, Yates. Nays 6-Ford, Handy, LeMaster, Lile, Perkins, Rattliff.

The motion to adjourn was adopted.

THURSDAY, MARCH 1, 1984

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Phenis Potter, Immanuel Baptist Church, Pikeville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 29, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **HB 110** with Senate Amendment, and **HB 132.**

Introduction of Bills and Resolutions

HB 833, by Representative LeMaster: AN ACT relating to codes of student rights and responsibilities.

HB 834, by Representative LeMaster: AN ACT relating to loans for research and development.

HB 835, by Representative LeMaster: AN ACT relating to state government.

HB 836, by Representative LeMaster: AN ACT relating to general government.

HB 837, by Representative LeMaster: AN ACT relating to misdemeanants.

HB 838, by Representatives Moore, Lundergan, and Blevins: AN ACT relating to financial institutions.

HB 839, by Representative Kidd: AN ACT relating to public health and specifying the use of the funds derived therefrom.

HB 840, by Representatives P. Clark and Priddy: AN ACT relating to individual income tax.

HB 841, by Representative Hancock: AN ACT relating to state personnel.

HB 842, by Representative Hancock: AN ACT relating to historic state owned properties.

HB 843, by Representative Hancock: AN ACT relating to marital property and declaring an emergency.

HB 844, by Representative McNutt: AN ACT relating to transient merchants.

HB 845, by Representative Bendl: AN ACT relating to interstate compacts on subsidized adoptions.

HB 846, by Representative Ford: AN ACT relating to certificates of death.

HB 847, by Representative Burch: AN ACT relating to reorganization of investigative responsibilities and powers.

HB 848, by Representatives Hancock and Long: AN ACT relating to fees charged by the secretary of state.

HB 849, by Representative Blevins: AN ACT relating to motor vehicle operator's licensing.

HB 850, by Representatives Van Horn and Bennett: AN ACT providing for licensing of electrical occupations.

HB 851, by Representative Donnermeyer: AN ACT relating to state personnel.

HB 852, by Representative Hancock: AN ACT relating to public printing.

HB 853, by Representative Hancock: AN ACT relating to estates.

HB 854, by Representative Cyrus: AN ACT relating to child labor.

HJR 87, by Representative LeMaster: A JOINT RESOLUTION declaring June, 1984, as Selective Service Month.

HR 88, by Representatives Worthington, Kenton, Lundergan, and Brown: A RESOLUTION adjourning the House of Representatives in honor and memory of Dr. Mitchell Denham.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 820.**

Banking and Insurance: **HB 821, HB 826, HB 829.**

Business Organizations and Professions: **HB 818, HB 828, SB 174.**

Cities: **HB 825.**

Counties and Special Districts: **HB 822.**

Education: **HB 827.**

Health and Welfare: **HB 819.**

Judiciary-Civil: **HB 823, HB 832.**

Natural Resources and Environment: **HB 830.**

State Government: **HB 817, HB 824, HCR 86, SB 69, SB 192.**

Transportation: **HB 816, HB 831.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 735.**

Report of Committees

The Committee on Rules reported **HB 26, HB 310, HB 379, HB 517, HB 240,** and **HB 608** have been posted for passage in Orders of the Day, March 2, 1984.

The Committee on Rules reported the following Bills have been recommitted:

To the Committee on Appropriations and Revenue: **HB 492, HB 178, HB 456.**

The Committee on Banking and Insurance reported **HB 700** and **HB 721** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 700, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-045 is amended to read as follows:

(1) No insurer shall increase the premium on an automobile liability insurance policy solely as a result of a claim for an automobile accident filed by an insured if the insured was not at fault nor contributorily negligent, *or solely as a result of a property damage claim in the amount of five hundred dollars ($500) or less, exclusive of any applicable deductible.*

(2) An insured may notify in writing the commissioner of insurance if the insured believes that an insurer has increased his premium in violation of subsection (1) of this section. The commissioner shall investigate the complaint, take appropriate action, and send written notice of his actions to the insured.

HB 721, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.18-110 is amended to read as follows:

(1) Any group policy as defined in KRS 304.18-020 *affecting the rights of a Kentucky insured and bearing a reasonable relation to Kentucky* [~~delivered or issued for delivery in this state~~] which provides hospital or surgical expense benefits, other than for specific disease or accidental injury only, shall provide that with respect to employes or members having been covered under the group policy for at least three (3) months, such employes or members shall have the right upon termination of employment or membership in the group to have the existing group coverage continued for themselves and their eligible dependents. *For purposes of this section, a Kentucky insured is a resident of this state covered under a policy of insurance, whether such policy is delivered or issued for delivery in this state or in any other state.* Written notice of employe's right to continue existing group coverage shall be given by the insurance company in each master policy, certificate and group policy issued after July 15, 1982. The insurance company shall furnish each employer or group policyholder an adequate supply of attachments for each master policy, certificate or group policy already in effect. An employe or member electing continuation of coverage shall provide the insurance company written notice of election together with the first monthly premium contribution within thirty-one (31) days of the date coverage would otherwise terminate. The group rate premium shall be paid by the employe directly to the insurance company. The premium rate shall be that required for the coverage being continued and shall not exceed the applicable group rate. Continuation of coverage shall not be available for any employe or member who is or could be covered by medicare, nor who is or could be covered by any other group coverage insured or uninsured providing similar benefits. Continuation of coverage shall terminate on the earlier of:

(a) The date nine (9) months after the date on which the group coverage would otherwise have terminated because of termination of employment or membership,

(b) If the employe or member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made, or

(c) the date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(2) Any group policy described in subsection (1) of this section shall also provide that an employe or member having elected continuation of coverage pursuant to subsection (1) of this section and any covered spouse of an employe or member upon the death or divorce of such employe or member, shall be entitled to have issued to them without evidence of insurability, a health insurance policy on a form then available for conversion from the group coverage, by making written application therefor, accompanied by the first quarterly, semiannual or annual premium, at the option of the person or members, to the insurer not later than thirty-one (31) days after such termination of coverage. Such premium shall be in accordance with the insurer's table of premium rates in effect on the later of*:*

(a) The effective date of the converted policy*;* or

(b) The date of application therefor, and applicable to the class of risk to which the covered persons belong, their ages, the form, and the amount of insurance provided.

(3) Any group policy as defined in KRS 304.18-020 delivered or issued for delivery in this state which provides hospital or surgical benefits other than for specific diseases or accidental injury only, shall provide that if coverage terminates for any reason and if the individual has been continuously insured under a group policy and under any group policy it replaces for at least three (3) months immediately preceding the termination of coverage, he shall be entitled to have issued to him by the insurer, without evidence of insurability, a health insurance policy on a form providing substantially similar benefits, which shall include the option to continue any existing maternity benefits, by making written application therefor, accompanied by the first quarterly, semiannual or annual premium, at the option of the person or member, to the insurer not later than thirty-one (31) days after such termination of coverage. Such premium shall be in accordance with the insurer's table of premium rates in effect on the later of*:*

(a) The effective date of the converted policy*;* or

(b) The date of application therefor, and applicable to the class of risk to which the covered persons belong and to their ages and to the form and amount of insurance provided.

(4) The converted policy shall cover the person or member and his eligible dependents covered by the group policy on the date the group policy terminated. The effective date of any such converted policy shall be the date of termination of insurance under the group policy.

(5) The insurer shall not be required to issue a converted policy covering any person if such person is or could be covered by medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded). Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(a) Such person is covered for similar benefits by another hospital or surgical or medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program or

(b) Similar benefits are provided for, or available to, such person pursuant to, or in accordance with the requirements of, any statute, and the benefits provided or available under any of the sources referred to in paragraph (a) *of this subsection* and this paragraph for such person, together with the converted policy, would result in over insurance according to the insurer's standards relating to policies converted from group policies. A converted policy made available pursuant hereto shall provide substantially similar benefits but in no event be less than the minimum standards contained in KRS 304.18-120 if delivery of such converted policy is to be made in this state; and, if delivery of such converted policy is to be made elsewhere, it may be on such form as the insurer may then be offering for such conversion in the jurisdiction where such delivery is to be made and which provides substantially in compliance with that required by KRS 304.18-120.

(6) In the event coverage would be continued under the group policy on a person or member following his retirement prior to the time he is or could be covered by medicare, he may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had his insurance terminated at retirement by reason of termination of employment.

(7) The conversion privilege shall also be available:

(a) To the surviving spouse, at the death of the person or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of the death of the person or member; or

(b) To a child solely with respect to himself upon termination of his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or

(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

(8) This section shall not apply to group major medical expense insurance which supplements basic hospital, medical and surgical coverage under one (1) or more group policies, group contracts or group remittance contracts from which a converted policy or a continuation of coverage is available providing benefits equivalent to the minimum benefits for a converted policy under this section.

(9) If a person or member becomes entitled to obtain a converted policy pursuant to the foregoing provisions, and if such person or member has not been given written notice of the existence of the conversion privilege stated above, within thirty-one (31) days of termination of the group coverage, then in such event the person or member shall have an additional period within which to exercise the conversion privilege. This additional period shall expire fifteen (15) days after the person or member shall have been given said notice but in no event shall the additional period extend beyond sixty (60) days after the expiration of the thirty-one (31) day conversion period stated above. Written notice presented to the person or member or mailed by the policyholder to the last known address of the person or member or mailed by the insurer to the last known address of the person or member as furnished by the policyholder shall constitute the giving of notice for the purpose of this subsection. If an additional period is allowed the person or member for exercise of the conversion privilege as provided herein, and if written application for the converted policy, accompanied by the first quarterly or semiannual or annual premium, is made after the expiration of the thirty-one (31) day

conversion period stated above, but within the additional period allowed an employe or member in accordance with this subsection, the effective date of the converted policy shall be the date of termination from the group.

The Committee on Eduction reported **HB 76, HB 660** with Committee Amendment attached thereto, **SB 24,** and **SB 108** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 76, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.160 is amended to read as follows:

(1) The state board of education shall adopt rules and regulations relating to:

(a)[~~(1)~~] Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(b)[~~(2)~~] Grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(c)[~~(3)~~] Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(d)[~~(4)~~] Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the state board shall adopt the uniform state building code;

(e)[~~(5)~~] Medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children;

(f)[~~(6)~~] The transportation of children to and from school;

(g)[~~(7) Approval of private and parochial schools of elementary or high school grades;~~

~~(8)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(h)[~~(9)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the state board of education;

(i)[~~(10)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts;

(j)[~~(11)~~] The disposal of real and personal property owned by local boards of education.

(2) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the state board of education upon application to the board by such schools.

Section 2. KRS 156.445 is amended to read as follows:

(1) No textbook shall be used in any public school in Kentucky as a basal textbook unless it has been approved and listed on the state multiple list of textbooks by the state textbook commission. Any changes of textbooks made by the state textbook commission shall not become effective until grades and classes of the respective county and independent school districts have completed work for which the adopted book then in use was originally intended. Nothing in this section shall apply to the supplementary books that are needed from time to time.

(2) In approving text materials for private and parochial schools for the purpose of KRS 156.160*(2)*[~~(7) and KRS 159.030~~] such text materials shall be approved if they are comprehensive and appropriate to the grade level in question notwithstanding the fact *that* [~~if~~] they may contain elements of religious philosophy.

Section 3. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private, [~~or~~] parochial*, or church* regular day school *whose parent or legal guardian has given notice to the local board of education* [~~approved by the state board of education~~]; or

(c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school with a permit issued pursuant to KRS 158.310; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is enrolled and in regular attendance in [~~state approved~~] private, [~~or~~] parochial, *or church* school programs for exceptional children; or

(f) Who is enrolled and in regular attendance in a state supported program for exceptional children*;*

(g) For purposes of this Act, "church school" shall mean a school operated as a ministry of a local church, group of churches, denomination, or association of churches on a nonprofit basis.

(2) Before granting an exemption under paragraph (d) of subsection (1) of this section the state board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician, psychologist or psychiatrist, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exempt any such child from compulsory attendance. Any child who is excused from school attendance more than six (6) months must have two (2) signed statements from a combination of the following professional persons: a licensed physician, psychologist, psychiatrist, and health officer. Exemptions of all children under the provisions of subsection (1)(d) of this section must be reviewed annually with the evidence required being updated.

(3) For any such child who is excluded under the provisions of subsection (1)(d), home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the state board of education shall be provided.

HB 660, AN ACT relating to school buses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.153 is amended to read as follows:

(1) All school buses for which bids are made or bid contracts awarded shall meet the standards and specifications of the state board *of* [~~for elementary and secondary~~] education. The term "school bus," as used in this section, shall mean any motor vehicle which meets the standards and specifications for school buses as provided by law or by the standards or specifications of the state board *of* [~~for elementary and secondary~~] education authorized by law and used solely in transporting school children and school employes to and from school under the supervision and control and at the direction of school authorities, and shall further include school bus accessory equipment and supplies and replacement equipment considered to be reasonably adaptable for purchase from price contract agreements.

(2) All school buses manufactured prior to 1983 shall be equipped with exterior mirrors so as to meet the 1984 standards and specifications of the state board of education.

The Committee Amendment No. 1 to **HB 660** is as follows:

Amend printed copy of **HB 660** on page 1, line 19, by inserting the following after the word "*exterior*":

"*fender mounted front view and side view*"

SB 24, AN ACT relating to teacher retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section.

(b) For retirements effective January 1, 1984, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%).

(c) If the member has five (5) years or more of Kentucky service, but less than thirty (30) years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than thirty (30) years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than eighty-eight dollars ($88) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall be effective July 1, 1978, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1982, the monthly allowance of each member retired on or before July 1, 1981, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1983, the monthly allowance of each member retired on or before July 1, 1982, and each recipient of a retirement option of such retired member shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member had been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of such child or until such time as the mental condition creating the dependency no longer exists. [~~Benefits under this subsection shall not apply to adopted children.~~] The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82 and 1982-84 shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1982-84 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

SB 108, AN ACT relating to instructional programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:
158.280 Instruction in the environment -- Selection of books for.
158.450 Administration -- Rules and regulations.
158.455 Instruction.
158.460 Development of program -- Curricula.
158.465 Teacher's and administrator's training programs.
158.470 Policy of local school district.
158.505 Definitions.
158.510 Purpose.
158.515 Administration -- Rules and regulations.
158.520 Curriculum -- Areas included.
158.525 Development of program -- Functions of department.
158.530 Policy of local school district.

158.535	Assistance from persons outside school system permitted.
158.540	Implementation of KRS 158.510 to 158.545.
158.545	Application by school district for funding -- Grants.
158.550	Title.

The Committee on Education reported **HB 153**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 153** is as follows:

Amend printed copy of **HB 153** page 3, after line 10, by inserting the following:

"*(5) All local school board members shall complete at least fifteen (15) hours of in-service training annually. The state board of education shall identify the criteria for fulfilling this requirement.*"

The Committee on Energy reported **HB 238** with Committee Amendment attached thereto, **HB 490**, and **HB 619** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 238, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation; *or*

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; [~~or~~

~~(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;~~]

(4) "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service

rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(13) "Commission" means the public service commission of Kentucky;

(14) "Commissioner" means one (1) of the members of the commission.

The Committee Amendment No. 1 to **HB 238** is as follows:

Amend printed copy of **HB 238** on page 2, line 9 after the semicolon by removing the bracket and strikethrough marks;

On page 2, lines 10 through 14 by removing the strikethrough marks;

On page 2, line 15, by removing the strikethrough marks and the bracket;

On page 2, line 15, by adding after the word district: "*or a Sanitation District created under KRS Chapter 220*"

HB 490, AN ACT relating to income taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) At the election of the taxpayer, there shall be allowed as a credit against the income tax imposed by this chapter for the taxable year, an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the first five hundred dollars ($500) contributed by the taxpayer during such year to Kentucky nonprofit corporations certified by the revenue cabinet as having been established specifically to aid underprivileged Kentucky residents in meeting their needs for energy and fuel for heating, cooking, and lighting.

(2) No credit shall be allowed under this section to any organization which is exempt from income tax by this chapter.

(3) In the case of a husband and wife filing separate returns, the credit may be taken by either taxpayer, or divided equally between them, but the combined credit shall not exceed two hundred fifty dollars ($250).

(4) In no event shall the credit allowed by this section, for any taxable year, exceed the amount of the income tax imposed by this chapter for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by this chapter.

(5) This tax credit shall not apply to trusts or estates.

(6) The revenue cabinet may promulgate such rules and regulations as necessary to effectively administer the requirements of this Act.

(7) The revenue cabinet shall report on the impact of this Act to the 1986 general assembly and to the appropriate interim committee preceding the 1986 general assembly. Such report shall include the number and amount of the qualifying credits claimed, an estimate of the distribution by income group, the net revenue gain or loss to the Commonwealth attributable to the credits, and such other information as the cabinet deems pertinent to an analysis of this Act.

HB 619, AN ACT relating to valuation of utility property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.290 is amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, the commission may ascertain and fix the value of the whole or any part of the property of any utility in so far as the value is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time and ascertain the value of all new construction, extensions and additions to the property of the utility. In fixing the value of any property under this subsection, the commission shall give due consideration to the history and development of the utility and its property, original cost, cost of reproduction as a going concern, capital structure, and other elements of value recognized by the law of the land for rate-making purposes.

(2) The commission shall not value or revalue the property of any utility unless the valuation or revaluation is necessary or advisable in order to determine the legality or reasonableness of any rate or service or of the issuance of securities, and then only after an investigation affecting the rate, service or securities has been instituted by the commission upon complaint or application or upon its own motion, and a hearing has been held on reasonable notice.

(3) In any rate investigation where the utility serves two (2) or more municipalities, the commission may, in computing the rate of return on the property used and useful, take as the base for the computation the valuation of the system as a whole, but may make a differential in the case of an individual municipality in proportion to the increased cost of service, if the utility can show that such a differential should be allowed.

(4) In fixing the value of the property of a water utility or combined water, gas or sewer utility organized under KRS Chapter 74 or 273 for the purpose of computing depreciation or setting rates, the commission shall include the full value of utility installations paid for in whole or in part by grants, contributions or donations.

The Committee on Judiciary-Civil reported **HB 207, HB 376** with Committee Substitute and Committee Amendment attached thereto, **HB 510, HB 547, HB 573, HB 574, HB 590,** and **HB 644** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 207, AN ACT relating to net court revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) The net court revenue, as finally determined in KRS 24A.191, less the net amount of new revenues received by cities, counties, or urban-county governments from any new or existing source as a result of the implementation of the district courts, shall be returned to the cities, counties, and urban-county governments as provided in subsection (2) of this section. New source may include court facilities fees or any other source from which the city, county or urban-county governments were not receiving revenue before the implementation of the district courts. Existing source may include the sale of motor vehicle operators' licenses, boat registrations, or any other source from which the city, county or urban-county governments may receive additional revenue as a result of implementation of the district courts. Such payments shall be made quarterly.

(2) The entire amount of the net court revenue monies available shall be divided between cities (as a group) and counties and urban-county governments (as a group) in proportion to the amounts which they were receiving as of July 1, 1984.

(a) The amount which cities receive shall be divided among those cities receiving net court revenue payments prior to July 1, 1984 on the basis of the population of the city instead of upon the court revenue previously generated by the city.

(b) The amount which counties and urban-county governments receive shall be divided among those counties and urban-county governments receiving net court revenue payments prior to July 1, 1984 on the basis of the population of the county or urban-county government instead of upon the court revenue previously generated by the county or urban-county governments.

(c) Population shall be based upon the most recent Federal census data.

Section 2. In order to phase in the change specified in Section 1 of this Act, the finance and administration cabinet shall convert to the new provisions over a four (4) year period by changing one quarter (1/4) of the available monies to the new funding program each year beginning with the fiscal year starting July 1, 1985.

Section 3. KRS 24A.191, Computation of net court revenue and base court revenue, and KRS 24A.192, Return to cities and counties of net court revenue, shall remain in effect except as modified by changes required by Sections 1 and 2 of this Act until July 1, 1989, at which time they are repealed.

HB 376, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.740 is amended to read as follows:

When the parent's support obligation has been determined by court order, [~~and~~] the dependent child is receiving public assistance from the cabinet, [~~and~~] the parent is not providing support in the amount due *and the past due support equals two (2) months of arrearages*, the cabinet may petition the circuit court to order, and the circuit court *shall* [~~may~~] order, the parent to assign to the cabinet that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the amount ordered by a court for the support of the child. Such order shall be binding upon an employer upon the service by certified mail of a copy of the order upon such employer and until further order of the court. The employer may deduct the sum of *one dollar ($1)* [~~fifty cents (50)~~] for each payment made pursuant to such order to cover its administrative expenses. Any such order may be modified or revoked at any time by the court upon prior notification by the court to the cabinet. Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court. No assignment under this section by an employe shall constitute grounds for dismissal of the employe.

Section 2. KRS 205.745 is amended to read as follows:

(1) A child support lien in favor of the cabinet shall attach to all personal and real property of the responsible parent if he has failed to make full child support payment within thirty (30) days after it is due.

(2) The cabinet shall file its claim of lien within *one (1) year* [~~three months~~] from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the cabinet for human resources, claims a lien in the amount of .... on the (describe property) of (name of parent) for child support owed to his dependent children and public assistance monies paid to his children by the cabinet for human resources."

(3) The cabinet shall notify the responsible parent of the filing of its claim of lien.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) All services available to individuals receiving aid to families with dependent children (AFDC) benefits shall also be available to individuals not receiving AFDC benefits, upon application by such individual with the cabinet.

(2) The cabinet is authorized to charge an application fee for such services based on a fee schedule. The schedule shall be designed so as not to discourage application for services by persons most in need of them nor to encourage application by persons for whom such services are otherwise reasonably available.

Section 4. KRS 406.081 is amended to read as follows:

(1) The court, upon *request* [~~timely motion~~] of *a party or on its own motion* [~~the defendant~~], shall order the mother, child and alleged father to submit to blood tests. If the mother refuses for herself or on behalf of the child to submit to such tests, the court may resolve the question of paternity against *her* [~~the complainant~~] unless such action is brought by *or is being prosecuted by* an agency [~~substantially~~] contributing to the support of the child.

(2) If a blood test is required, the court shall direct that inherited characteristics, including but not limited to blood tests, be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(3) Blood test results are admissible and shall be weighed along with other evidence of the alleged father's paternity:

(a) If the results of blood tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing;

(b) Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody;

(c) A verified expert's report shall be admitted at trial unless a challenge to the testing procedure or the results of blood analysis has been made before trial; and

(d) All costs shall be paid by the parties in proportions and at times determined by the court.

Section 5. KRS 406.031 is amended to read as follows:

The determination of paternity under the provisions of KRS 406.021 (1) shall be commenced within *eighteen (18)* [~~three (3)~~] years after the birth, miscarriage or stillbirth of a child. The determination of paternity under the provisions of KRS 406.021 (2) may be made at any time prior to the child's eighteenth birthday.

The Committee Substitute to **HB 376** is as follows:

HB 376, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.740 is amended to read as follows:

When the parent's support obligation has been determined by court order, [~~and~~] the dependent child is receiving public assistance from the cabinet, [~~and~~] the parent is not providing support in the amount due *and the full obligation is thirty-two (32) days delinquent*, the cabinet may petition the circuit court to order, and, *upon a finding by the circuit court that the full obligation is thirty-two (32) days delinquent*, the circuit court *shall* [~~may~~] order, the parent to assign to the cabinet that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the amount ordered by a court for the support of the child. Such order shall be binding upon an employer upon the service by certified mail of a copy of the order upon such employer and until further order of the court. The employer may deduct the sum of *one dollar ($1)* [~~fifty cents (50)~~] for each payment made pursuant to such order to cover its administrative expenses. [~~Any such order may be modified or revoked at any time by the court upon prior notification by the court to the cabinet.~~] Any such assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court. No assignment under this section by an employe shall constitute grounds for dismissal of the employe.

Section 2. KRS 205.745 is amended to read as follows:

(1) A child support lien in favor of the cabinet shall attach to all personal and real property of the responsible parent if he has failed to make full child support payment within *thirty-two (32)* [~~thirty (30)~~] days after it is due.

(2) The cabinet shall file its claim of lien within *one (1) year* [~~three months~~] from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the cabinet for human resources, claims a lien in the amount of .... on the (describe property) of (name of parent) for child support owed to his dependent children and public assistance monies paid to his children by the cabinet for human resources."

(3) The cabinet shall notify the responsible parent of the filing of its claim of lien.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) All services available to individuals receiving aid to families with dependent children (AFDC) benefits shall also be available to individuals not receiving AFDC benefits, upon application by such individual with the cabinet.

(2) The cabinet is authorized to charge an application fee for such services based on a fee schedule, which shall take into account at least the following factors about the individual:

(a) Locality of residence;

(b) Family size;

(c) Gross income; and

(d) Liquid assets.

Section 4. KRS 406.081 is amended to read as follows:

The court, upon *request* [~~timely motion~~] of *a party or on its own motion* [~~the defendant~~], shall order the mother, child and alleged father to submit to blood tests. If the mother refuses for herself or on behalf of the child to submit to such tests, the court may resolve the question of paternity against *her* [~~the complainant~~] unless such action is brought by *or is being prosecuted by* an agency [~~substantially~~] contributing to the support of the child.

Section 5. KRS 406.091 is amended to read as follows:

(1) If a blood test is required, the court shall direct that inherited characteristics, including but not limited to blood tests, be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(2) Blood test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.

(3) If the results of blood tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing.

(4) Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(5) A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(6) All costs associated with blood testing shall be paid by the parties in proportions and at times determined by the court. [~~The tests shall be made by experts qualified as examiners of blood types who shall be appointed by the court. The experts shall be called by the court as witnesses to testify to their findings and shall be subject to cross-examination by the parties. The defendant upon whose motion the tests have been ordered may demand that other experts, qualified as examiners of blood types, perform independent tests under order of court, the results of which may be offered in evidence. The number and qualifications of such experts shall be determined by the court.~~]

Section 6. KRS 406.031 is amended to read as follows:

The determination of paternity under the provisions of KRS 406.021 (1) shall be commenced within *four (4)* [~~three (3)~~] years after the birth, miscarriage or stillbirth of a child *when there is no cohabitation after the birth, miscarriage or stillbirth; if there is cohabitation after the birth, miscarriage or stillbirth, the statute of limitations of four (4) years begins to run at the time at which the cohabitation ceases.* The determination of paternity under the provisions of KRS 406.021 (2) may be made at any time prior to the child's eighteenth birthday.

The Committee Amendment No. 1 to the Committee Substitute to **HB 376** is as follows:

Amend printed copy of Committee Substitute **HB 376** on page 3, by inserting after line 15 and before line 16, the following: "*The cabinet shall endeavor to recover these fees from the non-supporting parent and shall, if recovery is successful, reimburse these fees to the applicant.*"

HB 510, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.190 is amended to read as follows:

(1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property without regard to marital misconduct in *equal* [~~just~~] proportions *unless the court determines that to do so would be inequitable when* considering all relevant factors including:

(a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;

(b) *Contribution of each spouse to the career advancement of the other spouse;*

(c) Value of the property set apart to each spouse;

(d)[~~(c)~~] Duration of the marriage; and

(e)[~~(d)~~] Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.

(2) For the purpose of this chapter, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(a) Property acquired by gift, bequest, devise, or descent;

(b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent;

(c) Property acquired by a spouse after a decree of legal separation;

(d) Property excluded by valid agreement of the parties; and

(e) The increase in value of property acquired before the marriage to the extent that such increase did not result from the efforts of the parties during marriage.

(3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.

Section 2. KRS 403.200 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of a marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

(a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and

(b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home*; or*

(c) Has enhanced the career advancement of the spouse from whom maintenance is sought, resulting in disparate earning abilities between the two (2) spouses.

(2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and *may include a period until the death of either party or the remarriage of the spouse seeking maintenance. In determining the amount and period of the maintenance, the court shall consider* [~~after considering~~] all relevant factors including *but not limited to*:

(a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, and the physical and emotional condition of the spouse seeking maintenance; [~~and~~]

(f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance*; and*

(g) The career benefits enjoyed by the spouse from whom maintenance is sought when in some measure attributable to the efforts of the spouse seeking maintenance.

HB 547, AN ACT relating to a cause of action in nuisance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Any person who obtains all or part of his supply of water for domestic, agricultural or other use from an underground source, where such supply has been affected by contamination, diminution, or interruption resulting from the actions of another, shall have the right to bring an action in nuisance, subject to all of the applicable tests, burdens of proof, and defenses existing at common law. Such action shall be brought in the circuit court of the county in which the operation or activity complained of is located. Nothing in this section shall restrict any other right of action which any person may have under statute or common law.

HB 573, AN ACT relating to agister's liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.400 is amended to read as follows:

Any owner or keeper of a livery stable, and a person feeding or grazing cattle for compensation, shall have a lien *for one (1) year* upon the cattle placed in the stable or put out to be fed or grazed by the owner, for his reasonable charges for keeping, caring for, feeding and grazing the cattle. The lien shall attach whether the cattle are merely temporarily lodged, fed, grazed and cared for, or are placed at the stable or other place or pasture for regular board. [~~The lien shall be subject to the limitations and restrictions placed upon a landlord's lien for rent.~~]

Section 2. KRS 376.410 is amended to read as follows:

Any person in whose favor a lien provided for in KRS 376.400 exists may, before the district court of the county where the cattle were fed or grazed, by himself or agent, make affidavit of the amount due him and in arrears for keeping and caring for the cattle, and describing as nearly as possible the cattle so kept by him. The court shall then issue a warrant, directed to the sheriff or any constable or town marshal of the county, authorizing him to levy upon and seize the cattle for the amount due, with interest and costs. If the cattle are removed with the consent and from the custody of the livery stable keeper or the person feeding or grazing them, the lien shall not continue longer than *one (1) year* [~~ten (10) days~~] from and after the removal, nor shall the lien in case of such removal be valid against a bona fide purchaser without notice at any time after the removal. The warrant may be issued to a county other than that in which the cattle were fed or grazed, and the lien may also be enforced by action as in the case of other liens.

HB 574, AN ACT ceding to the United States jurisdiction over the area embraced by the Federal Correctional Institution at Fayette County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 3 IS CREATED TO READ AS FOLLOWS:

Kentucky cedes to the United States jurisdiction over the area embraced by the federal correctional institution at Fayette County.

HB 590, AN ACT relating to mechanics' and materialmen's liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.010 is amended to read as follows:

(1) Any person who performs labor or furnishes materials *or supplies, all as defined in KRS 376.195,* for the erection, altering or repairing of a house or other structure or for any fixture or machinery therein, for the excavation of cellars, cisterns, vaults, wells or for the improvement in any manner of real property including the furnishing of agricultural lime, fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, contractor, subcontractor, architect or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made or on any interest the owner has therein, to secure the amount thereof with interest as provided in KRS 360.040 and costs. The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials. The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.

(2) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county wherein he has furnished or expects to furnish labor or materials, a statement showing that he has furnished or expects to furnish labor or materials, and the amount in full thereof. The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement. The statement shall, in other respects, be in the form prescribed by KRS 376.080.

(3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section unless he notifies in writing the owner of the property to be held liable or his authorized agent, within seventy-five (75) days on claims amounting to less than $1,000 and one hundred twenty (120) days on claims in excess of $1,000 after the last item of material or labor is furnished, of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent within the county in which the property to be held liable is located.

(4) No person who has not contracted directly with the owner-occupant or his authorized agent shall acquire a lien under this section on an owner-occupied single or double family dwelling or the appurtenances or additions thereto unless he notifies in writing the owner-occupant of the property to be held liable or his authorized agent not more than ten (10) days after the first item of material or labor is furnished, of the delivery of the material or performance of labor and of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner-occupant of the property upon which the lien is claimed, or to his duly authorized agent. This notice is in lieu of the notice provided for in subsection (3). Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an owner-occupant of a single or double family dwelling has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect or authorized agent for work performed or materials furnished prior to such payment. The contractor or subcontractor cannot be the

authorized agent under this subsection.

HB 644, AN ACT relating to cable television programming decency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Contemporary community standards" means those current standards in the vicinage where a nuisance alleged under this Act has occurred or is occurring.

(2) "Distribute" means to send, transmit, retransmit, telecast, disseminate, or cablecast by any means, including by wire or satellite, or to provide material to send, transmit, retransmit, telecast, disseminate, or cablecast.

(3) "Indecent material" means a visual or verbal depiction, display, representation, dissemination, or verbal description of:

(a) A human sexual or excretory organ or function; or

(b) A state of undress so as to expose the human male or female genitals, pubic area, or buttocks, with less than a fully opaque covering, or showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple; or

(c) An ultimate sexual act, normal or perverted, actual or simulated; or

(d) Masturbation

which the average person applying contemporary community standards for cable television or pay-for-viewing television programming would find is presented in a patently offensive way for the time, place, manner and context in which the material is presented.

(4) "Knowingly" means an awareness, whether actual or constructive, of the character of the material involved. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the material involved and if a failure to inspect or observe is either for the purpose of avoiding the disclosure or is negligent.

SECTION 2. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

A person shall be deemed to have maintained a nuisance when as a continuing course of conduct, he knowingly distributes indecent material within this state over any cable television system or pay-for-viewing television programming.

SECTION 3. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

(1) Enforcement of this Act shall be by civil process only and subject only to the civil sanctions contained herein.

(2) An action under this Act may be brought by the attorney general or by any county or city attorney in any circuit court where the nuisance alleged has occurred or is occurring and shall be subject to the Rules of Civil Procedure.

(3) A person found to have maintained a nuisance shall be subject to a fine in an amount not greater than five thousand dollars ($5,000), plus costs and reasonable attorney's fees.

(4) If a person has previously been found to have maintained a nuisance under this Act, he shall be subject to a fine in an amount not greater than twenty-five thousand dollars ($25,000), plus costs and reasonable attorney's fees.

SECTION 4. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

This Act shall apply solely to cable television systems or pay-for-viewing television programming and shall not apply to over-the-air broadcasting by a radio or television station located within the state and licensed by the federal communications commission pursuant to part 73, subpart E, of the FCC rules and regulations (47 CFR 73.601, et seq.). Nothing herein, however, shall preclude the application of this Act to program material originally broadcast or otherwise distributed by broadcast facilities located within or without the state and thereafter distributed by a cable television system or pay-for-viewing television programming located within the state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

(1) It is an affirmative defense to an action under this Act that the distribution of indecent material was restricted to institutions or persons having scientific, educational, governmental, or other similar justification for distributing indecent material.

(2) It is not a defense to an action under this Act that the person was an employe, or otherwise was required to violate any provision of this Act incident to his employment.

(3) No party to an action under this Act shall be required to introduce expert witness testimony as to whether the material is or is not indecent, or as to any element of the definition of indecency, including contemporary community standards.

SECTION 6. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

This Act does not preclude the following:

(1) The right of cities, counties, or other political subdivisions from further regulating the distribution of indecent material over any cable television system or pay-for-viewing television programming; or

(2) The application of other laws of this state regulating the distribution of indecent material over any cable television system or pay-for-viewing television programming.

SECTION 7. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

This Act shall be known and may be cited as the "Cable Television Programming Decency Act." This Act shall apply to cable television systems and pay-for-viewing television programming.

The Committee Substitute to **HB 644** is as follows:

HB 644, AN ACT relating to cable television programming decency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Contemporary community standards" means those current standards in the vicinage where a nuisance alleged under this Act has occurred or is occurring.

(2) "Distribute" means to send, transmit, retransmit, telecast, disseminate, or cablecast by any means, including by wire or satellite, or to provide material to send, transmit, retransmit, telecast, disseminate, or cablecast.

(3) "Indecent material" means a patently offense visual or verbal depiction, display, representation, dissemination, or verbal description, which the average person applying contemporary community standards for cable television or pay-for-viewing television programming would find is presented in a patently offensive way for the time, place, manner and context in which the material is presented, of:

(a) A human sexual or excretory organ or function; or

(b) A state of undress so as to expose the human male or female genitals or pubic area; or

(c) An ultimate sexual act, normal or perverted, actual or simulated; or

(d) Masturbation

(4) "Knowingly" means an awareness, whether actual or constructive, of the character of the material involved. A person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the material involved and if a failure to inspect or observe is either for the purpose of avoiding the disclosure or is negligent.

SECTION 2. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

A person shall be deemed to have maintained a nuisance when as a continuing course of conduct, he knowingly distributes indecent material within this state over any cable television system or pay-for-viewing television programming.

SECTION 3. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

(1) Enforcement of this Act shall be by civil process only and subject only to the civil sanctions contained herein.

(2) An action under this Act may be brought by the attorney general or by any Commonwealth's or county attorney in any circuit court where the material constituting the nuisance has been distributed or received or is occurring and shall be subject to the Rules of Civil Procedure.

(3) A person found to have maintained a nuisance shall, for a first offense, be subject to a civil penalty in an amount not greater than five thousand dollars ($5,000), plus costs and reasonable attorney's fees and shall be permanently enjoined from such conduct in the future.

(4) If a person has previously been found to have maintained a nuisance under this Act, he shall be

subject to a civil penalty in an amount not greater than twenty-five thousand dollars ($25,000), plus costs and reasonable attorney's fees and shall be permanently enjoined from such conduct in the future.

SECTION 4. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

This Act shall apply solely to cable television systems or pay-for-viewing television programming and shall not apply to over-the-air broadcasting by a radio or television station located within the state and licensed by the federal communications commission pursuant to part 73, subpart E, of the FCC rules and regulations (47 CFR 73.601, et seq.). Nothing herein, however, shall preclude the application of this Act to program material originally broadcast or otherwise distributed by broadcast facilities located within or without the state and thereafter distributed by a cable television system or pay-for-viewing television programming located within the state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

(1) It is an affirmative defense to an action under this Act that the distribution of indecent material was restricted to institutions or persons having scientific, educational, governmental, or other similar justification for distributing indecent material.

(2) It is not a defense to an action under this Act that the person was an employe, or otherwise was required to violate any provision of this Act incident to his employment.

(3) No party to an action under this Act shall be required to introduce expert witness testimony as to whether the material is or is not indecent, or as to any element of the definition of indecency, including contemporary community standards.

SECTION 6. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

This Act does not preclude the following:

(1) The right of cities, urban counties, or counties from further regulating the distribution of indecent material over any cable television system or pay-for-viewing television programming; or

(2) The application of other laws of this state regulating the distribution of indecent or obscene material.

SECTION 7. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

This Act shall be known and may be cited as the "Cable Television Programming Decency Act." This Act shall apply to cable television systems and pay-for-viewing television programming.

The Committee on Transportation reported **HB 497** and **HB 565** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 497, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the state police, a public police department, *corrections cabinet*, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; ambulances; any vehicle commandeered by a police officer; or any motor vehicle used by a volunteer fireman while responding to an emergency.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 2. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad or publicly owned civil defense agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles, *corrections cabinet vehicles,* and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating

blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) All public safety vehicles shall be equipped with one or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(4) Red flashing lights may be used by school buses.

(5) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

HB 565, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

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Section 1. KRS 186.173 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, a member of the Kentucky national guard *or any retired member of the national guard with thirty (30) years of service* shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the national guard. The guardsman *or retired guardsman* may purchase only one (1) such registration annually and it must be for a vehicle in which he has total or partial ownership. Each application shall be accompanied by proof of current *or previous* service in the Kentucky national guard, and the payment of a one-time fee of twenty-five dollars ($25.00). License plates issued under this section shall expire on December 31. Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service *or thirty (30) years of previous service* in the Kentucky national guard, and without payment of a registration fee, the clerk shall issue a new plate, or a renewal decal, as directed by the transportation cabinet.

(2) (a) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the national guard license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate, and certificate of title and registration, upon payment of an eleven dollar fifty cent ($11.50) state fee and one dollar ($1.00) clerk's fee.

(b) Upon application of another vehicle which is authorized to bear such registration under subsection (1) of this section, owned by the same applicant to whom the national guard license plate was originally issued the county clerk shall issue another such license plate. There shall be no state fee for this plate and one dollar ($1.00) clerk's fee.

(3) Upon termination of membership in the Kentucky national guard, *except for those retired persons who remain eligible through the provisions of subsection (1) of this section*, an applicant to whom a national guard license plate was issued under this section shall, within thirty (30) days, return the national guard plate to the county clerk of the county of his residence.

(4) For the services performed in issuing national guard license plates, and in annually issuing a renewal decal to be affixed to the national guard license plate, the county clerk shall receive from each applicant a fee of one dollar ($1.00). A like fee shall be charged for the issuance of another replacement license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The secretary of the transportation cabinet shall in accordance with the provisions of KRS Chapter 13 make such reasonable regulations and prescribe such forms as may be necessary to carry out the purpose of this section.

Calendar

HR 61, SB 7, HB 571, HB 639, HB 707, SB 81, HB 263, HB 514, HB 605, HB 86, HB 372, HB 457, HB 489, HB 553, HB 628, HB 632, HB 640, HB 670, HB 718, and **SB 183** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative LeMaster moved that the rules be suspended to consider a Legislative Citation. Agreed.

Representative Burch moved the adoption of the following Legislative Citation No. 84. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mrs. Lillian Long Kapheke of Louisville, Kentucky, for your laudable and well-deserved recognition as "Kentucky Mother of the Year" by the Kentucky Mothers Association at Barren River State Park on February 18, 1984. God blessed you with His priceless gift of love - one son and eight daughters, including two sets of twins, of which you have willingly and unselfishly given of your time and talents. Especially noteworthy is the fact that you and your husband, William Thomas Klapheke, have provided college educations for six children (five of which have now obtained advanced degrees) and have three children now enrolled at the University of Louisville. Your compassionate spirit, your genuine and loving friendship, your self denials and self sacrifices, spending long hours of tireless efforts, always willing to go the extra mile, always finding the time to listen to the multiple problems children have and very discreetly offering encouraging solutions, truly has earned for you "Mother of the Year." As a fourth grade teacher at Laukhuf Elementary School you have influenced and inspired the lives of thousands of young people. This auspicious body extends our best wishes to you as you represent Kentucky at the National Conference of American Mothers, Inc., May 2-5 in New Orleans, Louisiana.

We are very proud of you; your dedication, perserverance and your noble example have proven very rewarding. (Sponsored by Representative Burch)

HB 484, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 484** be passed.

Representative Heleringer moved the adoption of the Floor Amendment No. 1 to **HB 484**. Rejected.

Representative Jones moved that **HB 484** be passed.

On the roll call the vote was yeas 75-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Bronger, Brown, Bruce, Burch, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Ford, Foster, Fryman, Gray, Hancock, Holbrook, Holloway, Johnson, T. Jones, Kenton, Layman, Lefevers, LeMaster, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rattliff, Richards, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 12-Bennett, Brinkley, Caldwell, Guenthner, Harper, Heleringer, R. Jones, Lile, List, Rapier, Reinhardt, B. Richardson.

HB 484 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 484** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 2, SB 64,** and **SB 102** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:37 p.m.)

Orders of the Day (continued)

Representative LeMaster moved that **HB 53**, with Committee Amendment attached thereto, be placed on the Clerk's desk. Agreed.

HB 320, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 320**. Agreed.

Representative Moberly moved the adoption of the Committee Substitute to **HB 320**. Agreed.

Representative Moberly moved that **HB 320**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 74-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Gray, Guenthner, Hancock, Harper, Hines, Holbrook, Holloway, R. Jones, T. Jones, Lefevers, LeMaster, Lile, Little, Long, Maggard, Mann, McElroy, McNutt, Meyer, Moberly, Morris, Noe, O'Brien, Overstreet, Patrick, Petty, Priddy, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 14-Curd, Farrow, Freibert, Fryman, Heleringer, Layman, List, Lundergan, McBee,Moore, Pearman, Perkins, Rapier, B. Smith.

HB 320, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 320**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 71** and **HB 132** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:50 p.m.)

HB 71 and **HB 132** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

SCR 14 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that **SCR 14** be passed.

On the roll call the vote was yeas 93-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Allen.

SCR 14 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SCR 14** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 65, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 65** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Crupper, Hancock, List, Little.

SB 65 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 65** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 602 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HB 602** be passed.

On the roll call the vote was yeas 82-Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, T. Jones, Layman, Lefevers, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 8-Bendl, Clarke, Ford, Freibert, Kenton, List, Moore, Perkins.

HB 602 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 602** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 17, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 17** is as follows:

Amend printed copy of **HB 17** on page 1, line 5, before the "(a)" by placing brackets around the "(4)" and inserting *(3)* in lieu thereof

Representative Cyrus moved that the House concur in the Senate Amendment to **HB 17**. Agreed.

Representative Cyrus moved that **HB 17**, as amended by the Senate, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B.

Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 17, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 17**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 34, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 34** is as follows:

Amend printed copy of **HB 34** on page 1, line 21, by inserting after the letter "*(k)*" the following: "*Environmental Quality Commission; (1)*" and by relettering the remaining paragraphs (1) through (o) accordingly.

On page 3, line 19, by inserting after the word "*community*" the following: "*by publishing the notice in the newspaper of greatest local circulation*"

Representative Arnold moved that the House concur in the Senate Amendment to **HB 34.** Agreed.

Representative Arnold moved that **HB 34**, as amended by the Senate, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Bruce.

HB 34, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 34**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 35, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 35** is as follows:

Amend printed copy of **HB 35** on page 5, line 18, by inserting after the word "*commission.*" the following: "*Before the state commission takes final action, all interested parties shall be given the opportunity to request the state commission to amend or overturn the local board's decision.*"

Representative Arnold moved that the House concur in the Senate Amendment No. 1 to **HB 35.** Agreed.

Representative Arnold moved that **HB 35**, as amended by the Senate, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 35, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 35**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 229, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 229** is as follows:

Amend printed copy of **HB 229** on page 1, line 8, after "*justice.*"insert the following subsection: "*(3) This section shall not apply to the offenses listed in KRS 431.015.*"

Representative Riner moved that the House concur in the Senate Amendment to **HB 229**. Agreed.

Representative Riner moved that **HB 229**, as amended by the Senate, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 229, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 229**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

t**HB 273**, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 273** is as follows:

Amend printed copy of **HB 273** on page 1, line 7, after the word "*include*" by inserting the words "*actual expenses*"

Representative Johnson moved that the House concur in the Senate Amendment to **HB 273**. Agreed.

Representative Johnson moved that **HB 273**, as amended by the Senate, be passed.

On the roll call the vote was yeas 93-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 273, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 273**, as amended by the Senate, was passed be reconsideredand said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Fryman moved that he be recorded as voting "yea" on **HB 320**. Agreed.

Representative Craddock moved that she be recorded as voting "yea" on **SB 79**. Agreed.

Representative Robinson moved that **HB 550** and **HB 661** be withdrawn. Agreed.

Representative Bennett moved that **HB 808** be reassigned to the Committee on Business Organizations and Professions. Agreed.

Representative Dunn moved that he be recorded as a co-sponsor of **HB 781**. Agreed.

Representative Worthington moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Worthington moved the adoption of the following **HR 88**:

HR 88, A RESOLUTION adjourning the House of Representatives in honor and memory of Dr. Mitchel Denham.

In kindest respect we pay homage to our departed friend.

WHEREAS, our beloved and respected colleague, Dr. Mitchel Denham has departed earthly bounds; and

WHEREAS, Dr. Mitchel Denham was an active and devoted member of the Maysville Chamber of Commerce, the Masons, the Rotary, the Mason County, and Kentucky, and American Medical Associations, as well as the American Association of Family Physicians; and

WHEREAS, Dr. Mitchel Denham was a devoted husband, loving father and dedicated friend to all; and

WHEREAS, Dr. Mitchel Denham was an understanding and compassionate representative who worked hard to serve the constituents of Fleming, Mason, Robertson and Rowan Counties; and

WHEREAS, Dr. Mitchel Denham was instrumental in the successful passage of legislation which created the Maysville Community College; and

WHEREAS, Dr. Mitchel Denham represented the 70th District in the House of Representatives from 1960 until 1969 and again from 1974 to 1976; and

WHEREAS, known for his honesty and integrity, Dr. Mitchel Denham was chosen by his peers to serve as House Majority Floor Leader and Speaker Pro Tem;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does express its sense of utter bereavement and loss upon the death of Dr. Mitchel Denham.

Section 2. That this honorable body extends to the family of Dr. Mitchel Denham its profound and deepest sympathy and commends the members to the solace of the Almighty.

Section 3. That when the House of Representatives does adjourn this day, Friday, March 2, 1984, it does so in honor and memory of Dr. Mitchel Denham.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the family of Dr. Mitchel Denham.

HR 88 was adopted by voice vote.

Representative Worthington moved that a call of the roll be taken to show co-sponsors of **HR 88**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 88-Allen**, Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates.

Representative Allen moved that he be recorded as "abstaining" on **SR 14**. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 855, by Representative Noe: AN ACT relating to county clerks.

HB 856, by Representative P. Richardson: AN ACT relating to permits to carry concealed deadly weapons.

HB 857, by Representative Stumbo: AN ACT relating to surface coal mining.

HB 858, by Representative Curd: AN ACT relating to special license plates for motor vehicles.

HB 859, by Representative Perkins: AN ACT relating to hospital care for the medically indigent.

HB 860, by Representatives List and Holbrook: AN ACT relating to the financing of motor vehicles.

HB 861, by Representatives Meyer, Harper, Petty, and Caldwell: AN ACT relating to representative districts and declaring an emergency.

HB 862, by Representative Meyer: AN ACT relating to health insurance.

HB 863, by Representatives Crupper, P. Richardson, Farrow, B. Smith, Robinson, Noland, and Turner: AN ACT relating to pornography.

HB 864, by Representatives B. Smith, Farrow, and Long: AN ACT relating to the area development fund.

HB 865, by Representative LeMaster: AN ACT relating to urban-county governments.

HB 866, by Representative List: AN ACT relating to sick leave for employes or teachers.

HB 867, by Representative Freibert: AN ACT relating to mentally disabled persons.

HB 868, by Representatives Perkins, Brinkley, Blandford, and Head: AN ACT relating to surface coal mining.

HB 869, by Representative Farrow: AN ACT relating to motor vehicles.

HB 870, by Representative Mann: AN ACT relating to revenue and taxation.

HB 871, by Representative Worthington: AN ACT relating to sales tax and use.

HB 872, by Representative Worthington: AN ACT relating to eminent domain.

HB 873, by Representatives Holbrook, Foster, and Fryman: AN ACT relating to insurance records.

HB 874, by Representative Nett: AN ACT relating to the reclassification of cities.

HB 875, by Representative Moberly: AN ACT relating to representative districts and declaring an emergency.

HB 876, by Representatives Moberly, Barrows, and Mann: AN ACT relating to the public service commission.

HB 877, by Representative Moberly: AN ACT relating to hazardous waste.

HB 878, by Representative Johnson: AN ACT relating to workers' compensation group self-insurance.

HB 879, by Representatives Clarke, LeMaster, B. Richardson, Donnermeyer, and Perkins: AN ACT relating to educational programs and providing a means for financing said programs.

HB 880, by Representative Cowan: AN ACT relating to exploitation of adults.

HB 881, by Representatives Endicott, Turner, Noland, Ford, Maggard, and Fryman: AN ACT relating to the public service commission.

HB 882, by Representative LeMaster: AN ACT relating to the legislative program review and investigations committee and declaring an emergency.

HB 883, by Representative Guenthner: AN ACT changing the classification of the City of Barbourmeade in Jefferson County.

HB 884, by Representatives Holloway, Lundergan, and Dunn: AN ACT relating to teacher certification.

HB 885, by Representative Deskins: AN ACT relating to motor vehicle insurance.

HB 886, by Representative Arnold: AN ACT relating to jails.

HB 887, by Representatives Arnold and Moore: AN ACT relating to gasoline tax.

HB 888, by Representative Deskins: AN ACT relating to surface coal mines.

HB 889, by Representative Richards: AN ACT relating to disaster and emergency response.

HB 890, by Representatives Cowan, Cline, and Cyrus: AN ACT relating to electric utilities.

HB 891, by Representative Turner: AN ACT relating to campaign finance.

HB 892, by Representative Todd: AN ACT relating to voter residences.

HB 893, by Representative Todd: AN ACT relating to public school interim reports to parents.

HCR 89, by Representative Noe: A CONCURRENT RESOLUTION directing the Legislative Research Commission, through the Interim Joint Committee on Health and Welfare, to study the provision of community-based mental health services in Kentucky.

HCR 90, by Representative Harper: A CONCURRENT RESOLUTION establishing as policy of the Commonwealth that joint projects between state agencies and the university system be encouraged.

Report of Committees

The Committee on Business Organizations and Professions reported **HB 72, HB 179** with Committee Substitute attached thereto, **HB 495** with Committee Substitute attached thereto, and **HB 562** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 72, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 242.380 is amended to read as follows:

(1) No property rights other than those in the *court of appropriate jurisdiction* [~~alcoholic beverage commission~~] pursuant to *Section 4 of this Act* [~~KRS 244.195(1)~~] shall exist in any alcoholic beverages obtained, possessed, held or used in violation of this chapter.

(2) The court, upon conviction of the person arrested, shall order the alcoholic beverages to be *destroyed by the sheriff for the county in which the alcoholic beverages were seized* [~~sold by the department of alcoholic beverage control or its representative in accordance with the provisions of KRS 244.195~~].

Section 2. KRS 244.180 is amended to read as follows:

The following property, even though found and seized in dry territory, is contraband:

(1) Any apparatus commonly used or intended to be used in the manufacture of alcoholic beverages and not registered in the office of a collector of internal revenue for the United States. The burden of proof that the apparatus is so registered shall be on the defendant.

(2) Any and all material, equipment, implements, devices, firearms and other property used or intended for use directly and immediately in connection with the unlawful traffic in alcoholic beverages.

(3) Any alcoholic beverages in the possession of anyone not entitled by law to possess them.

(4) Any alcoholic beverages to which the revenue stamps or tax crowns have not been affixed as required by KRS 243.720 to 243.850.

(5) Any alcoholic beverages in a container of a size prohibited by law or prohibited to the particular party in whose possession they are found.

(6) [~~Any distilled spirits or wine not kept in a locked department when required by KRS 244.290 to be kept there.~~

~~(7)~~] Any vehicle, watercraft or aircraft in which any person is illegally possessing or transporting alcoholic beverages. "Illegally possessing" means and includes the holding of any alcoholic liquors unless lawfully acquired and intended for lawful uses.

Section 3. KRS 244.190 is amended to read as follows:

Any peace officers, state administrators and field representatives of the department may, upon probable cause, without warrant seize contraband regardless of whether it is in dry territory or not, and hold it subject to the order of the court before which the owner or one in possession of the contraband has been charged with violation of KRS chapter 242 or KRS 243.020. Upon conviction of the defendant, the court shall enter an order *for the destruction of all contraband property included in subsections (1), (2), (3), (4) and (5) of Section 2 of this Act* [~~vesting title to all the contraband property in the board. If the property is seized in dry territory, title shall vest in the board only if the property was seized by the state administrators or field representatives of the department, or was released to the department by other officials~~].

Section 4. KRS 244.195 is amended to read as follows:

(1) Title to contraband included in subsections *(1), (2),* (3), (4) and (5) of *Section 2 of this Act* [~~KRS 244.180~~] seized [~~in a dry territory~~] shall be vested in the *appropriate court within whose jurisdiction the seizure occurred* [~~alcoholic beverage control board~~], irrespective of whether such contraband was seized by peace officers of the city or county or state administrators or field representatives of the department, notwithstanding the provisions of *Section 1 of this Act* [~~KRS 242.380~~].

(2) The *court shall order the sheriff for the county in which such contraband as included in subsection (1) of this section was seized to destroy such contraband upon conviction of the defendant* [~~alcoholic beverage control board shall cause a sale of such contraband as is included in subsection (1) of this section to be made and shall, after deducting the expense of transporting and selling such contraband, return one-half (1/2) the proceeds of such sale to the proper authorities of the city or county in which such seizure was accomplished solely by the peace officers of the city or county where such seizure occurred. The remaining one-half (1/2) shall be paid to the state treasury and shall be credited to the general fund. Where the evidence for the seizure of such contraband is obtained by the state administrators or field representatives of the department, the alcoholic beverage control board shall cause a sale of such contraband to be made and shall pay all the receipts to the state treasury to be credited to the general fund~~].

Section 5. KRS 244.200 is amended to read as follows:

(1) Contraband property included in subsection *(6)* [~~(7)~~] of KRS 244.180 shall be subject to the right of any owner or lienor, whose lien is valid and of record, to intervene and establish his rights in the property by proving that the property was being used in connection with traffic in alcoholic beverages without the knowledge, consent or approval of the owner or lienor. If the owner of the property does so prove, the court shall order the property restored to him. If the lienor so proves, the court shall order a sale of the property at public auction, unless an agreement is made between the lienor and the board, which shall not become final until it has been approved by the court. The board may deliver any property found to be contraband to a lienor whose claim has been established by order of a court of competent jurisdiction, upon payment to the board of the difference between the fair market value of the property so seized and the recorded claim of the lienor.

(2) Where an agreement has been made between the lienor and the board and approved by the court, a public auction shall not be required. If an agreement is not entered into between the board and the lienor or approved by the court, and a public auction is required to be held, the public auction shall be conducted by the sheriff of the county in which the property is seized. The sheriff shall receive and be allowed the same fees as allowed for sales under execution.

(3) The expenses of keeping and selling such property, and the amount of all valid recorded liens that

are established by intervention as being bona fide, shall be paid out of the proceeds of the sales, whether they are private or public. The balance shall be paid into the state treasury and be credited to the general fund.

(4) If the defendant is acquitted, no property seized as contraband in connection with the arrest of the defendant shall be ordered returned or restored unless the person from whose possession the property was taken proves that he was in lawful possession of the property, and if no other person appears and proves that he owns the property or has a valid recorded lien on the property and that the property was being used without his knowledge and consent, title shall vest in the board at the end of ninety (90) days.

(5) If the owners or lienholders of any contraband seized by state administrators or field representatives of the department or turned over to the department by other officials, cannot be located within ninety (90) days, and during that time fail to appear and claim the contraband, or if the owner or lienholder appears and agrees, title to the contraband shall immediately vest in the board, in which event it may sell the contraband at a private sale.

HB 179, AN ACT relating to occupations and professions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) "Allied mental health fields and degrees" means:

(a) Master's or doctoral degree in any mental health field where the course of studies as deemed by the board is equivalent to a master's degree in marriage and family therapy;

(b) Doctoral degree in clinical or counseling psychology; or

(c) Doctor of medicine or doctor of osteopathy degree;

(2) "Appraisal activities" means, within the practice of mental health counseling, the selection, administration, scoring, and interpretation of instruments designed to assess an individual's aptitudes, attitudes, educational achievement and vocational development, interests, and personal characteristics;

(3) "Board" means the Kentucky board of examiners in mental health counselor licensure and marriage and family therapy certification;

(4) "Certified marriage and family therapist" means a person certified under this chapter to use the title;

(5) "Consulting" means, within the practice of mental health counseling, interpreting or reporting, or both, scientific fact or theory in counseling, guidance, and personnel services to provide assistance in solving current or potential problems of individuals, or groups or organizations;

(6) "Mental health counseling" means, within the practice of counseling, assisting individuals or groups through the counseling relationship, to develop understanding of personal problems, to define goals, and to plan action reflecting their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers;

(7) "Licensed associate mental health counselor" means any person who holds himself out to the public by offering to render mental health counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice counseling under the supervision of a licensed mental health counselor;

(8) "Licensed mental health counselor" means any person who holds himself out to the public by offering to render counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice counseling;

(9) "Practice of mental health counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the applications of principles, methods, or procedures of the counseling profession, which include but are not limited to: counseling, appraisal activities, consulting and research activities; provided that the practice of counseling shall not be construed as excluding the practice by persons using the title mental health counselor which implies he is trained, experienced or an expert in the practice of mental health counseling;

(10) "Practice of marriage and family therapy" means the rendering of therapy or mental health counseling services to individuals, family groups and marital pairs, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise, and which center largely upon the family system and the relationship between husband and wife and includes premarital therapy, predivorce and postdivorce therapy and family therapy which consist of the applications of principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts, altering problematic attitudes and establishing productive ones in the areas of marriage and family life; and

(11) "Research activities" means, within the practice of counseling, reporting, designing, and conducting research on human subjects in counseling.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) There is created a Kentucky board of examiners in mental health counselor licensure and marriage and family therapy certification, composed of nine (9) members who shall be appointed by the governor. The governor shall appoint four (4) members who are eligible for licensure as mental health counselors and four (4) members who are eligible for certification as marriage and family therapists. The initial appointees who are eligible for licensure shall be deemed respectively licensed or certified immediately upon appointment and qualification as board members. Future board candidates shall be licensed or certified prior to nomination except for the ninth member who shall be a citizen at large not associated with or financially interested in the practice or business being regulated.

(2) Each member of the board shall serve for four (4) years, except initially the governor shall appoint three (3) members with terms expiring at a rate of one (1) per year for the first three (3) years after July 15, 1984. Licensed mental health counselors who vacate their seats shall be replaced by licensed mental health counselors. Certified marriage and family therapists who vacate their seats shall be replaced by certified marriage and family therapists. All reappointments and vacancies shall be filled by the governor.

(3) The governor shall remove from office, upon recommendation by a majority of the board and after notice and hearing by the board, any member for incompetence, neglect of duty or malfeasance in office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Adopt bylaws;

(2) Review the credentials of licensure applicants to determine if they are eligible for licensure, upon payment of a twenty-five dollar ($25) fee;

(3) Prepare or select and administer examinations to applicants for both licensure and certification;

(4) Certify marriage and family therapists applicants who satisfy the experience and educational requirements of Sections 7 and 8 of this Act;

(5) License as mental health counselors and as associate mental health counselors persons who satisfy the respective requirements of Sections 5, 6 and 8 of this Act;

(6) Submit an annual report to the governor listing all hearings conducted by the board and any decisions rendered; and

(7) Adopt a code of ethics governing the practice of mental health counseling and the use of the title of "certified marriage and family therapist."

SECTION 4. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel;

(2) Investigate suspected violations of this chapter; and

(3) Institute and maintain actions to restrain or enjoin violations of this chapter.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for licensure as a mental health counselor shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides or is employed in the Commonwealth of Kentucky;

(3) Has completed at least sixty (60) graduate semester hours, or its equivalent in quarter hours, from a regionally accredited institution of higher education based upon a program of studies in the behavioral sciences and possesses a master's degree of a type satisfactory to the board or an equivalent degree as determined by the board; and

(4) Has had at least three (3) years of professional experience of a type satisfactory to the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure as an associate mental health counselor shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he meets all of the requirements for licensure as a mental health counselor with the exception of the three (3) years experience requirement, as provided under Section 5(4) of this Act.

(2) A licensed associate mental health counselor may practice only under direct supervision of a licensed mental health counselor, who has received board approval for his supervision plan.

(3) Upon completion of the experience requirement provided in Section 5(4) of this Act, a licensed associate mental health counselor may petition the board for licensure as a mental health counselor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a marriage and family therapist shall pay the board a fee of one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides in or is employed in the Commonwealth of Kentucky;

(3) Possesses at least a master's degree or its equivalent from a recognized educational institution accepted by the board in the field of marriage and family therapy or a master's degree or its equivalent in an allied mental health field as recognized by the board;

(4) (a) Has had at least three (3) years experience in the practice of marriage and family therapy or mental health counseling satisfactory to the board, subsequent to being granted a master's degree and has acquired a minimum of two hundred (200) hours of clinical supervision acceptable to the board; or

(b) Was certified or licensed prior to July 15, 1984 in the Commonwealth of Kentucky in an allied mental health profession.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure on or after July 15, 1985, as a mental health counselor shall meet the requirements of Section 5 of this Act and, in addition, shall pass an examination administered by the board.

(2) An applicant for licensure on or after July 15, 1985, as an associate mental health counselor shall meet the requirements of Section 6 of this Act, and in addition, shall pass an examination administered by the board.

(3) An applicant for certification on or after July 15, 1985, as a certified marriage and family therapist shall meet the requirements of Section 7 of this Act and, in addition, shall pass an examination administered by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) Licenses and certificates issued under this chapter shall be renewed every three (3) years for a period of three (3) years upon payment of seventy-five dollars ($75) and fulfillment of continuing education or other requirements or both as determined by the board. The board shall cancel any license or certificate not renewed within three (3) months of the renewal date but may reinstate the license or certificate upon payment of the renewal fee and satisfaction of other requirements within one (1) year of the anniversary date of issue of renewal.

(2) Applicants who meet all requirements for admission to the licensure or certification examination and who pay a fee of twenty-five dollars ($25) shall be issued, at the discretion of the board, a temporary permit to practice until the next examination date.

(3) Within one (1) year from the effective date of this Act, any person who is currently practicing or has previously practiced as a mental health counselor or associate mental health counselor or marriage and family therapist shall receive automatic licensure or certification following payment of an initial license or certificate fee, as provided in this Act, without requirement of an examination.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter shall be construed as prohibiting or authorizing the practice of mental health counseling or marriage and family therapy by:

(1) Members of any recognized allied health care profession licensed or unlicensed by the Commonwealth who render services that are like or similar to those actions and services falling within the scope of the descriptions, classifications or categories provided for in this chapter if such individuals have been chosen by and paid through an employer or insurance carrier and if the allied health professionals do not imply that they are licensed as mental health counselors or as associate mental health counselors;

(2) Individuals in the employ of the state and federal governments or accredited institutions of higher education insofar as mental health counseling or marriage and family therapy are part of the official duties in the salaried position;

(3) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes if the practice of mental health counseling or marriage and family therapy is within the lawful scope of their professions; (4) Students pursuing a course of graduate study approved by the board;

(5) Persons who are completing the supervised clinical training as provided under Section 7 of this Act in preparation for certification as a marriage and family therapist; and

(6) A minister, priest, rabbi, or clergymen from functioning within a recognized religious organization.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) No one shall engage in the practice of mental health counseling unless he is a licensed mental health counselor or an associate mental health counselor under the provisions of this chapter, unless he is exempt under Section 10 of this Act or unless he is certified as a marriage and family therapist under this Act.

(2) No one shall use the titles "licensed mental health counselor," "licensed associate mental health

counselor,'' or ''certified marriage and family therapist'' unless authorized to do so by the board nor shall anyone hold himself out to the public as having such a status by means of using such a title or a substantially similar title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards or other instruments of professional identification.

(3) Nothing in this chapter shall be construed as prohibiting or authorizing the advertisement or practice of marriage and family therapy.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A majority of the board may, upon investigation, suspend for a definite period not to exceed one (1) year, or may revoke, a license or certificate if the license or certificate holder has:

(1) Been convicted of a felony;

(2) Used fraud or deception in applying for a license or in taking an examination required by this chapter;

(3) Violated the code of ethics adopted by the board;

(4) Engaged in professional misconduct, unethical or unprofessional conduct, including but not limited to, wilful acts, negligence, conduct likely to deceive, defraud, or harm the public or engage in such conduct as the result of habitual use of intoxicating substances; or

(5) Wilfully or negligently violated any provisions of this chapter or regulations issued thereunder.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A person whose application for licensure or certification is denied shall be provided written notice of the reasons for his denial. Upon written request within thirty (30) days of the denial, the board shall grant a hearing to review the denial.

(2) In every proceeding for suspension or revocation of a license or certificate, the holder shall:

(a) Be granted the opportunity for a board hearing;

(b) Be provided by certified mail at his last known address at least thirty (30) days prior to the hearing written notice setting out each offense charged with sufficient detail to apprise him of the nature, time and place of each offense. Failure to appear at the hearing shall not prevent the hearing or invalidate any action taken by the board; and

(c) Have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges.

(3) In every proceeding for suspension or revocation of a license or certificate holder, the board:

(a) May subpoena persons and papers on its behalf and on the behalf of the person under consideration, administer oaths, and take testimony; and

(b) Shall provide written notice of its decision to the license or certificate holder by certified mail within ten (10) days following the conclusion of the hearing.

(4) A decision of the board shall become final thirty (30) days after the conclusion of the hearing unless the licensee or certificate holder appeals the decision to the circuit court where the applicant, licensee or certificate holder resides. The suspension or revocation shall remain in effect pending any appeals unless the board provides otherwise in its suspension or revocation order.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person whose license or certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with the procedures established by the board.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person holding a license or certificate granted under this chapter shall not testify in any civil proceeding concerning any communication made to him, in his professional character, by his client, unless the client making the confidential communication waives the privilege.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Members of the board, its agents and employes shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Any violation of this chapter or regulations issued thereunder shall be a Class A misdemeanor.

The Committee Substitute to **HB 179** is as follows:

HB 179, AN ACT relating to occupations and professions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) "Allied mental health fields and degrees" means:

(a) Master's or doctoral degree in any mental health field where the course of studies as deemed by the board is equivalent to a master's degree in marriage and family therapy;

(b) Doctoral degree in clinical or counseling psychology; or

(c) Doctor of medicine or doctor of osteopathy degree; or

(d) Master's or doctoral degree in pastoral counseling or pastoral psychotherapy.

(2) "Board" means the Kentucky board of examiners in mental health counselor licensure and marriage and family therapy certification;

(3) "Certified marriage and family therapist" means a person certified under this chapter to use the title;

(4) "Mental health counseling" means, within the practice of counseling, assisting individuals or groups by:

(a) Applying the principles, methods and theories of counseling and psychotherapeutic techniques to define goals and develop a plan of action aimed toward the prevention, treatment and resolution of mental and emotional dysfunction or intra or inter personal disorders of a non-psychotic nature; and

(b) Engaging in psychotherapy of a non-medical nature utilizing supervision and making referrals to other psychiatric, psychological or medical resources when appropriate.

(5) "Licensed associate mental health counselor" means any person who holds himself out to the public by offering to render mental health counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice mental health counseling under the supervision of a licensed mental health counselor;

(6) "Licensed mental health counselor" means any person who holds himself out to the public by offering to render mental health counseling services for remuneration, monetary or otherwise, who is licensed under this chapter to practice mental health counseling;

(7) "Practice of mental health counseling" means rendering or offering to render mental health counseling to individuals, groups, organizations, or the general public for compensation; and

(8) "Practice of marriage and family therapy" means the rendering of therapy or mental health counseling services to individuals, family groups and marital pairs, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise, and which center largely upon the family system and the relationship between husband and wife and includes premarital therapy, predivorce and postdivorce therapy and family therapy which consist of the applications of principles, methods and therapeutic techniques for the purpose of resolving emotional conflicts, altering problematic attitudes and establishing productive ones in the areas of marriage and family life.

(9) Nothing in this Act shall be construed to alter, amend or interfer with the practice of employment counseling or job placement counseling.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) There is created a Kentucky board of examiners in mental health counselor licensure and marriage and family therapy certification, composed of nine (9) members who shall be appointed by the governor. The governor shall appoint four (4) members who are eligible for licensure as mental health counselors and four (4) members who are eligible for certification as marriage and family therapists. The initial appointees who are eligible for licensure shall be deemed respectively licensed or certified immediately upon appointment and qualification as board members. Future board candidates shall be licensed or certified prior to nomination except for the ninth member who shall be a citizen at large not associated with or financially interested in the practice or business being regulated.

(2) Each member of the board shall serve for four (4) years, except initially the governor shall appoint three (3) members with terms expiring at a rate of one (1) per year for the first three (3) years after July 15, 1984. Licensed mental health counselors who vacate their seats shall be replaced by licensed mental health counselors. Certified marriage and family therapists who vacate their seats shall be replaced by certified marriage and family therapists. All reappointments and vacancies shall be filled by the governor.

(3) The governor shall remove from office, upon recommendation by a majority of the board and after notice and hearing by the board, any member for incompetence, neglect of duty or malfeasance in office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Promulgate necessary and reasonable regulations to carry out the provisions of this Act

(2) Review the credentials of licensure applicants to determine if they are eligible for licensure, upon payment of a fee not to exceed twenty-five dollars ($25);

(3) Prepare or select and administer examinations to applicants for both licensure and certification;

(4) Certify marriage and family therapists applicants who satisfy the experience and educational requirements of Sections 7 and 8 of this Act;

(5) License as mental health counselors and as associate mental health counselors persons who satisfy the respective requirements of Sections 5, 6 and 8 of this Act;

(6) Submit an annual report to the governor listing all hearings conducted by the board and any decisions rendered; and

(7) Adopt a code of ethics governing the practice of mental health counseling and the use of the title of "certified marriage and family therapist."

SECTION 4. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel or contract with the division of occupations and professions for the provision of administrative services;

(2) Investigate suspected violations of this chapter; and

(3) Institute and maintain actions to restrain or enjoin violations of this chapter.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for licensure as a mental health counselor shall pay the board a fee not to exceed one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides or is employed in the Commonwealth of Kentucky;

(3) Has completed at least sixty (60) graduate semester hours, or its equivalent in quarter hours, from a regionally accredited institution of higher education based upon a program of studies in mental health counseling or an equivalent program of studies as determined by the board and possesses a master's degree in mental health counseling or an equivalent degree as determined by the board; and

(4) Has had at least three (3) years of supervised professional experience of a type satisfactory to the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure as an associate mental health counselor shall pay the board a fee not to exceed one hundred dollars ($100) and shall satisfy the board that he meets all of the requirements for licensure as a mental health counselor with the exception of the three (3) years experience requirement, as provided under Section 5(4) of this Act.

(2) A licensed associate mental health counselor may practice only under direct supervision of a licensed mental health counselor, who has received board approval for his supervision plan.

(3) Upon completion of the experience requirement provided in Section 5(4) of this Act, a licensed associate mental health counselor may petition the board for licensure as a mental health counselor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a marriage and family therapist shall pay the board a fee not to exceed one hundred dollars ($100) and shall satisfy the board that he:

(1) Is at least eighteen (18) years of age;

(2) Resides in or is employed in the Commonwealth of Kentucky;

(3) Completion of a master's or doctoral degree in marriage and family therapy from a regionally accredited educational institution, or an equivalent course of study and degree as defined by the board;

(4) (a) Has had at least three (3) years experience in the practice of marriage and family therapy or mental health counseling satisfactory to the board, subsequent to being granted a master's degree and has acquired a minimum of two hundred (200) hours of clinical supervision acceptable to the board; or

(b) Was certified or licensed prior to July 15, 1984 in the Commonwealth of Kentucky in an allied mental health profession.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for licensure on or after July 15, 1985, as a mental health counselor shall meet the requirements of Section 5 of this Act and, in addition, shall pass an examination administered by the board.

(2) An applicant for licensure on or after July 15, 1985, as an associate mental health counselor shall meet the requirements of Section 6 of this Act, and in addition, shall pass an examination administered by the board.

(3) An applicant for certification on or after July 15, 1985, as a certified marriage and family therapist shall meet the requirements of Section 7 of this Act and, in addition, shall pass an examination

administered by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) Licenses and certificates issued under this chapter shall be renewed every three (3) years for a period of three (3) years upon payment of a fee not to exceed seventy-five dollars ($75) and fulfillment of continuing education as determined by the board, not to exceed twenty (20) clock hours per year. The board shall accept as satisfactory for meeting continuing education requirements, attendance at conferences, seminars, workshops or other offering sponsored by recognized national, state or local professional associations when the content of such is related to the practice of mental health counseling or marriage and family therapy. The board shall cancel any license or certificate not renewed within three (3) months of the renewal date but may reinstate the license or certificate upon payment of the renewal fee and satisfaction of other requirements within one (1) year of the anniversary date of issue of renewal.

(2) Applicants who meet all requirements for admission to the licensure or certification examination and who pay a fee not to exceed twenty-five dollars ($25) shall be issued, at the discretion of the board, a temporary permit to practice until the next examination date.

(3) Within one (1) year from the effective date of this Act, any person who is currently practicing or has previously practiced as a mental health counselor or associate mental health counselor or marriage and family therapist shall receive automatic licensure or certification following payment of an initial license or certificate fee, as provided in this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Individuals in the following classifications shall be exempt from this Act:

(1) Members of any recognized allied health care profession licensed or unlicensed by the Commonwealth who render services that are like or similar to those actions and services falling within the scope of the descriptions, classifications or categories provided for in this chapter if such individuals have been chosen by and paid through an employer or insurance carrier and if the allied health professionals do not imply that they are licensed as mental health counselors or as associate mental health counselors;

(2) Individuals in the employ of the state and federal governments or accredited institutions of higher education insofar as mental health counseling or marriage and family therapy are part of the official duties in the salaried position;

(3) Persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, nurses, psychologists and social workers, when the practice of mental health counseling or marriage and family therapy is provided within the lawful scope of their professions; (4) Students pursuing a course of graduate study approved by the board;

(5) Persons who are completing the supervised clinical training as provided under Section 7 of this Act in preparation for certification as a marriage and family therapist; and

(6) Clergy, religious workers, or religious leaders who are members in good standing with a recognized denomination or religious organization and who are exercising ministerial responsibilities in the parish ministry, institutional ministry, or any other recognized form of ministry, including, but not limited to, pastoral counseling and pastoral psychotherapy, provided the person does not claim to be licensed as a mental health counselor or associate mental health counselor or to be certified as a marriage and family therapist.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) No one shall engage in the practice of mental health counseling unless he is a licensed mental health counselor or an associate mental health counselor under the provisions of this chapter, unless he is exempt under Section 10 of this Act or unless he is certified as a marriage and family therapist under this Act.

(2) No one shall use the titles "licensed mental health counselor," "licensed associate mental health counselor," or "certified marriage and family therapist" unless authorized to do so by the board nor shall anyone hold himself out to the public as having such a status by means of using such a title or a substantially similar title on signs, mailboxes, address plates, stationery, announcements, telephone listings, calling cards or other instruments of professional identification.

(3) Nothing in this chapter shall be construed as prohibiting or authorizing the advertisement or practice of marriage and family therapy.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A majority of the board may, upon investigation, suspend for a definite period not to exceed one (1) year, or may revoke, a license or certificate if the license or certificate holder has:

(1) Been convicted of a felony the nature of which would adversely affect the ability of the practitioner to practice competently;

(2) Used fraud or deception in applying for a license or in taking an examination required by this chapter;

(3) Violated the code of ethics adopted by the board;

(4) Engaged in professional misconduct, unethical or unprofessional conduct, including but not limited to, wilful acts, negligence, conduct likely to deceive, defraud, or harm the public or engage in such conduct as the result of habitual use of intoxicating substances; or

(5) Wilfully or negligently violated any provisions of this chapter or regulations issued thereunder.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

(1) A person whose application for licensure or certification is denied shall be provided written notice of the reasons for his denial. Upon written request within thirty (30) days of the denial, the board shall grant a hearing to review the denial.

(2) In every proceeding for suspension or revocation of a license or certificate, the holder shall:

(a) Be granted the opportunity for a board hearing;

(b) Be provided by certified mail at his last known address at least thirty (30) days prior to the hearing written notice setting out each offense charged with sufficient detail to apprise him of the nature, time and place of each offense. Failure to appear at the hearing shall not prevent the hearing or invalidate any action taken by the board; and

(c) Have the right to be present in person or by counsel, to present evidence and to be heard in opposition to the charges.

(3) In every proceeding for suspension or revocation of a license or certificate holder, the board:

(a) May subpoena persons and papers on its behalf and on the behalf of the person under consideration, administer oaths, and take testimony; and

(b) Shall provide written notice of its decision to the license or certificate holder by certified mail within ten (10) days following the conclusion of the hearing.

(4) A decision of the board shall become final thirty (30) days after the conclusion of the hearing unless the licensee or certificate holder appeals the decision to the circuit court where the applicant, licensee or certificate holder resides. The suspension or revocation shall remain in effect pending any appeals unless the board provides otherwise in its suspension or revocation order.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person whose license or certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with the procedures established by the board.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

A person holding a license or certificate granted under this chapter shall not testify in any civil proceeding concerning any communication made to him, in his professional character, by his client, unless the client making the confidential communication waives the privilege.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Members of the board, its agents and employes shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319A IS CREATED TO READ AS FOLLOWS:

Any violation of Section 11 or Section 12(2) of this Act shall be a Class A misdemeanor.

HB 495, AN ACT relating to fire protection sprinkler contractor's license.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) A "fire protection sprinkler contractor" is a person engaged in the design, installation, repair, alteration, extension, maintenance or inspection of fire protection sprinkler systems and has in his employment a certificate holder.

(2) A "fire protection sprinkler contractor's license" is the license issued by the state fire marshal to a fire protection sprinkler contractor upon application being approved, fee paid and the satisfactory completion of the requirements of this Act. The license shall be issued in the name of the fire protection sprinkler contractor with the name or names of the certificate holder noted thereon.

(3) A "certificate holder" is an individual who has satisfactorily met and has received a certificate from the state fire marshal under the provisions of this Act.

(4) A "fire protection sprinkler system" is a system of piping designed or design supervised by a certificate holder in accordance with fire protection engineering standards. The system is supplied from a reliable, constant and sufficient water, gas or chemical supply, such as a gravity tank, fire pump, reservoir or pressure tank, or connection by underground piping to a city, county, municipal water district, authorized water main or both. The sprinkler system is considered the fire protection sprinkler system for purposes of this Act, and is a network of specially sized or hydraulically designed piping installed overhead and underground in a building, structure, or area, and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is usually activated by heat from a fire and causes the discharge of water, gas or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, standpipe systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems and circulating closed loop systems, systems utilizing gasses or chemicals, and any other fire suppression system approved by the state fire marshal.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The administration of this Act is vested in the state fire marshal's office.

(2) The state fire marshal shall:

(a) Issue such reasonable administrative regulations as necessary for the administration of this Act;

(b) Set or make reasonable changes in the fees charged for permits, testing and other aspects of the administration of this Act;

(c) Enforce the provisions of this Act;

(d) Conduct investigations of complaints and hold such hearings and disciplinary proceedings as are required by this Act; and

(e) Create an advisory body consisting of fire protection contractors and other related officials.

(3) The state fire marshal may:

(a) Secure the advice of the department of housing, building and construction with regard to administrative regulations;

(b) Have the competency test prepared by a source other than the state fire marshal.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, no person shall engage in the design, installation, repair, alteration, extension, maintenance or inspection of a fire protection sprinkler system or use any title, sign, card or device indicating, or intending to indicate, or represent in any manner that he is a certified fire protection sprinkler contractor without first obtaining the fire protection sprinkler contractor's license under the provisions of this Act; it being the purpose of this Act to safeguard life, health, property and welfare of the public.

(2) This Act shall not apply to state or local building officials, fire marshals, fire inspectors, or insurance inspectors when acting in their official capacities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

The design and plans for any fire protection sprinkler system for buildings, structures, vessels and other improvements that have a fire protection sprinkler system shall be prepared by a licensed fire protection sprinkler contractor or licensed professional engineer with a seal affixed thereto prior to being submitted to the state fire marshal for approval, or to the department of housing, building and construction if such approval is required under law.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) To become a certificate holder under this Act, an applicant must satisfactorily pass a current examination prescribed and administered by the national institute for certification in engineering technologies entitled fire protection engineering technology automatic sprinkler system design level III, or the equivalent thereof, approved by the state fire marshal, except as otherwise provided in this Act.

(2) Every applicant for a certificate shall fulfill the following requirements:

(a) Must be of good moral character;

(b) Must be a citizen of the United States of America and at least twenty-one (21) years of age; and

(c) Must be an owner, partner, officer or in a management position of a fire protection sprinkler contractor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Any person who is a certified fire protection sprinkler contractor in another state or country where the qualifications prescribed at the time of certification were, in the opinion of the state fire marshal, equal to those prescribed in the Commonwealth at the date of application, may be granted a certificate without examination, if such state affords a similar waiver of examination privilege to Kentucky certificate

holders.

(2) Provided the application for the certificate required hereunder is made prior to thirty (30) days after the effective date of this Act, the state fire marshal, in lieu of examination of the applicants for a certificate, shall accept as satisfactory evidence of his competency and qualification, affidavits attesting that the applicant has satisfactorily supervised the design and installation of at least three (3) fire protection sprinkler systems or water-spray systems of three hundred (300) or more sprinklers in size, such affidavits to include the name, description and location of each of the three (3) systems of three hundred (300) or more sprinkler heads.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

To become a licensed fire protection sprinkler contractor under this Act, a person must comply with the following:

(1) Must have in his employ a certificate holder who is an owner, partner, officer, officer or in a management position of the fire protection sprinkler contractor;

(2) Comply with the minimum insurance requirements of Section 10 of this Act; and

(3) Make application to the state fire marshal for a license and pay the fees required.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Each certificate holder engaged in the activity described under this Act shall secure an embossed circular seal with the design prescribed by regulation of the state fire marshal.

(2) All working drawings, specifications and plans prepared by, or under the supervision of the certificate holder, must bear the imprint of this seal and shall bear the imprint of the seal of the licensed fire protection contractor.

(3) No certificate holder shall assign or affix his seal to any drawings, specifications or plans which have not been prepared under his immediate supervision, and no licensed fire protection contractor shall affix his seal to such drawings, specifications or plans unless same were prepared by certificate holder employe as provided for in this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

The license and certificate shall be signed by the state fire marshal.

SECTION 10. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The state fire marshal shall not issue a license under this Act, unless the fire protection sprinkler contractor applicant files with the state fire marshal proof of liability insurance coverage of not less than two hundred and fifty thousand dollars ($250,000) one person/maximum and five hundred thousand dollars ($500,000) one accident/maximum and workers' compensation insurance as provided for in KRS Chapter 342.

(2) The insurance required by this section must be in the form of certificate of insurance executed by an insurer authorized to do business in this state and countersigned by a local agent licensed in this state. Insurance certificates filed with the state fire marshal under this section shall remain in force until the insurer has terminated future liability by a thirty (30) day notice to the state fire marshal.

(3) Failure to maintain the insurance required hereunder constitutes grounds for denial, suspension or revocation of a license under this Act by the state fire marshal.

SECTION 11. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

In no case shall a certificate holder be allowed to obtain a fire protection sprinkler contractor's license for more than one (1) fire protection sprinkler contractor at a time. If the certificate holder should leave the employment of the fire protection sprinkler contractor, he must notify the state fire marshal within thirty (30) days. The certificate holder shall not be eligible to obtain a fire protection sprinkler contractor's license for more than one (1) other fire protection sprinkler contractor for a period of twelve (12) months thereafter. If the certificate holder should leave the employment of the fire protection sprinkler contractor, or die, the contractor shall have six (6) months or until the expiration of the current license, whichever shall last occur, to submit a new application on another certificate holder who is at present an owner, partner, officer, or in a management position of the fire protection sprinkler contractor, and be issued a new license. If such application is not received and a new license issued within the allotted time, the state fire marshal shall revoke the license of the fire protection sprinkler contractor.

SECTION 12. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) (a) All certificate holders that desire to continue to engage in fire protection sprinkler business shall annually prior to July 1, secure from the state fire marshal, a renewal certificate upon the payment of the fee as shall be prescribed by the state fire marshal. Not later than May 1 of each year, the state fire marshal shall notify by mail all certificate holders of the renewal date and fee. Application for a renewal shall be upon

such form as is prescribed by the state fire marshal and the certificate holder shall furnish the information required by such form.

(b) Failure of any certificate holder to secure his renewal certificate within sixty (60) days after July 1, shall constitute sufficient cause for the state fire marshal to revoke his license.

(c) The state fire marshal may restore a certificate that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.

(2) A certificate holder may voluntarily surrender his certificate to the state fire marshal and thereby be relieved of the annual renewal fee. After surrendering of certificate, he shall not be known as a certificate holder and shall desist from the practice thereof. Within five (5) years from the time of surrender of the certificate, he may again qualify for a certificate without examination by the payment of the required fee. If five (5) years thereafter have lapsed, he shall return to the status of a new applicant.

(3) (a) All licensed fire protection sprinkler contractors desiring to continue to be licensed shall annually, prior to July 1, secure from the state fire marshal, a renewal license upon the payment of the fee as shall be prescribed by the state fire marshal. Not later than May 1 of each year, the state fire marshal will notify by mail all license holders of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the state fire marshal and license holder shall furnish the information required by such form.

(b) Failure of any certificate holder to secure his renewal certificate within sixty (60) days after July 1, shall constitute sufficient cause for the state fire marshal to revoke his license.

(c) The state fire marshal may restore a license that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.

(4) The initial certificate or license fee shall be pro rated based upon the portion of the year such certificate or license shall be in effect prior to the July 1 renewal.

SECTION 13. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) If a licensed fire protection sprinkler contractor desires to do business in any part of the state, he shall be required by this Act to deliver to the local building official a copy of his fire protection sprinkler contractor's license. The local building official shall require a copy of the license before issuing a license or building license and no local official shall impose any other competency requirements on the licensed fire protection sprinkler contractor.

(2) Nothing in this Act limits the power of a city, urban-county, county or state to regulate the quality and character of work performed by contractors, through a system of permits, fees and inspections which are designed to assure compliance with, and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety. Nothing in this Act limits the power of a city, urban-county, county or the state to adopt any system of permits requiring submission to and approval by the city, urban-county, county or the state of plans and specifications for work to be performed by contractors before commencement of the work. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler contractor is duly licensed by requiring evidence of a valid fire protection sprinkler contractor's license.

(3) This Act applies to any fire protection sprinkler contractor performing work for any city, urban-county, special district, county, or the state. Officials of any city, urban-county, special district, county or the state are required to determine compliance with this Act before awarding any contracts for the installation, repair, alteration, addition, or inspection of a fire protection sprinkler system. Bids for such work shall be accompanied by a copy of a valid fire protection sprinkler contractor's license.

SECTION 14. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

All license and certificate fees and charges collected by the state fire marshal under the provisions of the Act and the rules and regulations of the state fire marshal adopted hereunder, shall be paid to the state treasury and credited to a trust and agency fund to be used by the state fire marshal's office in carrying out the provisions of this Act. Any money in the trust and agency fund at the end of the fiscal year shall lapse to the general fund of the Commonwealth.

SECTION 15. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The state fire marshal may refuse to renew or may suspend or revoke the license of a licensed fire protection sprinkler contractor or the certificate of a certificate holder to engage in the business of fire protection sprinkler systems for any of the following reasons:

(a) Gross incompetency or gross negligence in the installation, repair, alteration, maintenance, inspection or addition to fire protection sprinkler systems, as determined by the state fire marshal;

(b) Conviction of a felony;

(c) Fraudulent or dishonest practices while engaging in the business of fire protection sprinkler systems;

(d) Use of false evidence or misrepresentation in an application for a license or certificate;

(e) Signing or affixing his seal to any plans, prints, specifications or reports, which have not been prepared by him personally or under his immediate supervision, or in violation of this Act;

(f) Violation of any provisions of this Act or the regulations issued thereunder.

(2) The state fire marshal shall revoke the license of a licensed fire protection sprinkler contractor or a certificate holder who engages in the fire protection sprinkler system business while his or its license is suspended.

(3) Any license or certificate holder who is aggrieved by an order of the state fire marshal suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal to the Franklin circuit court or the circuit court of the county of the license or certificate holder's place of business.

SECTION 16. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Whenever, in the judgment of the state fire marshal, any person has engaged, or is about to engage, in any acts of practices that constitute, or will constitute a violation of the provisions of this Act, the state fire marshal may inform the attorney general, who may make application to the Franklin circuit court for an order enjoining such acts or practices. Upon showing via the state fire marshal that such person has engaged, or is about to engage, in any such acts or practices, an injunction or restraining order, or such other order as may be appropriate, shall be granted by such court. Any order of the Franklin circuit court shall be enforceable and shall be valid anywhere in this Commonwealth and the order of either court shall be reviewable as provided for in the rules of civil procedure, in the case of other injunctions and restraining orders. Additionally, the state fire marshal shall impose a civil penalty not to exceed two hundred and fifty dollars ($250) for each day the violation above described exists. Violation of any provision of this Act, the regulations issued thereunder, or failure to comply with a cease and desist order shall be cause for revocation of the license or certificate.

SECTION 17. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Failure to comply with any order under Section 16 of this Act or the violation of this Act or any regulation issued thereunder shall constitute a Class B misdemeanor.

The Committee Substitute to **HB 495** is as follows:

HB 495, AN ACT relating to fire protection sprinkler contractor's license.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Department" means the department of housing, buildings and construction.

(2) "Commissioner" means the commissioner of the department.

(3) A "fire protection sprinkler contractor" is a person engaged in the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of fire protection sprinkler systems and has in his employment a certificate holder.

(4) A "fire protection sprinkler contractor's license" is the license issued by the commissioner to a fire protection sprinkler contractor upon application being approved, fee paid and the satisfactory completion of the requirements of this Act. The license shall be issued in the name of the fire protection sprinkler contractor with the name or names of the certificate holder noted thereon.

(5) A "certificate holder" is an individual who has satisfactorily met and has received a certificate from the commissioner under the provisions of this Act.

(6) A "fire protection sprinkler system" is a system of piping for which technical drawings have been prepared by or preparation supervised by a certificate holder in accordance with fire protection engineering standards. The system is supplied from a reliable, constant and sufficient water, gas or chemical supply, such as a gravity tank, fire pump, reservoir or pressure tank, or connection by underground piping to a city, county, municipal water district, authorized water main or both. The sprinkler system is considered the fire protection sprinkler system for purposes of this Act, and is a network of specially sized or hydraulically designed piping installed overhead and underground in a building, structure, or area, and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is usually activated by heat from a fire and causes the discharge of water, gas or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, standpipe systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems and circulating closed loop systems, systems

utilizing gasses or chemicals, and any other fire suppression system approved by the state fire marshal or the chief building code official of the department.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The administration of this Act is vested in the department of housing, buildings and construction.

(2) The commissioner shall:

(a) Issue such reasonable administrative regulations as necessary for the administration of this Act;

(b) Set or make reasonable changes in the fees charged for permits, testing and other aspects of the administration of this Act;

(c) Enforce the provisions of this Act;

(d) Conduct investigations of complaints and hold such hearings and disciplinary proceedings as are required by this Act; and

(e) Create an advisory body consisting of fire protection contractors and other related officials.

(3) The commissioner may:

(a) Secure the advice of the board of housing, building and construction with regard to administrative regulations;

(b) Have the competency test prepared by a source other than the commissioner.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, no person shall engage in the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of a fire protection sprinkler system or use any title, sign, card or device indicating, or intending to indicate, or represent in any manner that he is a certified fire protection sprinkler contractor without first obtaining the fire protection sprinkler contractor's license under the provisions of this Act; it being the purpose of this Act to safeguard life, health, property and welfare of the public.

(2) This Act shall not apply to state or local building officials, fire marshals, fire inspectors, or insurance inspectors when acting in their official capacities.

(3) This chapter shall not apply to professional engineers in the preparation of plans or construction inspection pursuant to KRS Chapter 322.

(4) This chapter shall not apply to limited area sprinkler systems served by a domestic water supply consisting of ten (10) sprinkler heads or less in one (1) structure.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The design for any fire protection sprinkler system for buildings and structures requiring the services of an architect or engineer in accordance with KRS 323.033 shall be prepared by a licensed professional engineer in accordance with KRS Chapter 322. The design for any fire protection sprinkler system for buildings and structures not requiring the services of an architect or engineer pursuant to KRS 323.033 may be prepared by either a professional engineer or a licensed fire protection sprinkler contractor.

(2) When a fire protection sprinkler system is required to be designed by a professional engineer in accordance with subsection (1) of this section, the licensed fire protection sprinkler contractor shall submit to the professional engineer, for his approval, technical drawings and, when required, hydraulic calculations for the installation of the fire protection sprinkler system. Such technical drawings, after approved by the professional engineer, shall be submitted by the professional engineer to the department of housing, buildings and construction, the insurance authority having jurisdiction, if any, and other authority when required by Kentucky law.

(3) When a fire protection sprinkler system is designed by a licensed fire protection sprinkler contractor in accordance with subsection (1) of this section, the licensed fire protection sprinkler contractor shall submit such design and detailed plans to the department of housing, buildings and construction, the insurance authority having jurisdiction, if any, and other authority when required by Kentucky law.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) To become a certificate holder under this Act, an applicant must satisfactorily pass a current examination prescribed and administered by the national institute for certification in engineering technologies entitled fire protection engineering technology automatic sprinkler system design level III, or the equivalent thereof, approved by the commissioner, except as otherwise provided in this Act.

(2) Every applicant for a certificate shall fulfill the following requirements:

(a) Must be of good moral character;

(b) Must be a citizen of the United States of America and at least twenty-one (21) years of age; and

(c) Must be an owner, partner, officer or in a management position of a fire protection sprinkler contractor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS

FOLLOWS:

(1) Any person who is a certified fire protection sprinkler contractor in another state or country where the qualifications prescribed at the time of certification were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, may be granted a certificate without examination, if such state affords a similar waiver of examination privilege to Kentucky certificate holders.

(2) Provided the application for the certificate required hereunder is made prior to thirty (30) days after the effective date of this Act, the commissioner, in lieu of examination of the applicants for a certificate, shall accept as satisfactory evidence of his competency and qualification, affidavits attesting that the applicant has satisfactorily supervised the preparation of technical drawings and installation of at least three (3) fire protection sprinkler systems or water-spray systems of three hundred (300) or more sprinklers in size, such affidavits to include the name, description and location of each of the three (3) systems of three hundred (300) or more sprinkler heads.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

To become a licensed fire protection sprinkler contractor under this Act, a person must comply with the following:

(1) Must have in his employ a certificate holder who is an owner, partner, officer, or in a management position of the fire protection sprinkler contractor;

(2) Comply with the minimum insurance requirements of Section 10 of this Act; and

(3) Make application to the commissioner for a license and pay the fees required.

SECTION 8. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Each certificate holder engaged in the activity described under this Act shall secure a seal with the design prescribed by regulation of the commissioner.

(2) All working drawings, specifications and plans prepared by, or under the supervision of the certificate holder, must bear the imprint of this seal and shall bear the imprint of the seal of the licensed fire protection contractor.

(3) No certificate holder shall assign or affix his seal to any drawings, specifications or plans which have not been prepared under his immediate supervision, and no licensed fire protection contractor shall affix his seal to such drawings, specifications or plans unless same were prepared by certificate holder employe as provided for in this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The license and certificate shall be signed by the commissioner.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall not issue a license under this Act, unless the fire protection sprinkler contractor applicant files with the commissioner proof of liability insurance coverage of not less than two hundred and fifty thousand dollars ($250,000) one person/maximum and five hundred thousand dollars ($500,000) one accident/maximum and workers' compensation insurance as provided for in KRS Chapter 342.

(2) The insurance required by this section must be in the form of certificate of insurance executed by an insurer authorized to do business in this state and countersigned by a local agent licensed in this state. Insurance certificates filed with the commissioner under this section shall remain in force until the insurer has terminated future liability by a thirty (30) day notice to the commissioner.

(3) Failure to maintain the insurance required hereunder constitutes grounds for denial, suspension or revocation of a license under this Act by the commissioner.

SECTION 11. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

In no case shall a certificate holder be allowed to obtain a fire protection sprinkler contractor's license for more than one (1) fire protection sprinkler contractor at a time. If the certificate holder should leave the employment of the fire protection sprinkler contractor, he must notify the commissioner within thirty (30) days. The certificate holder shall not be eligible to obtain a fire protection sprinkler contractor's license for more than one (1) other fire protection sprinkler contractor for a period of twelve (12) months thereafter. If the certificate holder should leave the employment of the fire protection sprinkler contractor, or die, the contractor shall have six (6) months or until the expiration of the current license, whichever shall last occur, to submit a new application on another certificate holder who is at present an owner, partner, officer, or in a management position of the fire protection sprinkler contractor, and be issued a new license. If such application is not received and a new license issued within the allotted time, the commissioner shall revoke the license of the fire protection sprinkler contractor.

SECTION 12. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) (a) All certificate holders that desire to continue to engage in fire protection sprinkler business shall annually prior to July 1, secure from the commissioner, a renewal certificate upon the payment of the fee as shall be prescribed by the commissioner. Not later than May 1 of each year, the commissioner shall notify by mail all certificate holders of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the commissioner and the certificate holder shall furnish the information required by such form.

(b) Failure of any certificate holder to secure his renewal certificate within sixty (60) days after July 1, shall constitute sufficient cause for the commissioner to revoke his license.

(c) The commissioner may restore a certificate that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.

(2) A certificate holder may voluntarily surrender his certificate to the commissioner and thereby be relieved of the annual renewal fee. After surrendering of certificate, he shall not be known as a certificate holder and shall desist from the practice thereof. Within five (5) years from the time of surrender of the certificate, he may again qualify for a certificate without examination by the payment of the required fee. If five (5) years thereafter have lapsed, he shall return to the status of a new applicant.

(3) (a) All licensed fire protection sprinkler contractors desiring to continue to be licensed shall annually, prior to July 1, secure from the commissioner, a renewal license upon the payment of the fee as shall be prescribed by the commissioner. Not later than May 1 of each year, the commissioner will notify by mail all license holders of the renewal date and fee. Application for a renewal shall be upon such form as is prescribed by the commissioner and license holder shall furnish the information required by such form.

(b) Failure of any certificate holder to secure his renewal certificate within sixty (60) days after July 1, shall constitute sufficient cause for the commissioner to revoke his license.

(c) The commissioner may restore a license that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.

(4) The initial certificate or license fee shall be pro rated based upon the portion of the year such certificate or license shall be in effect prior to the July 1 renewal.

SECTION 13. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) If a licensed fire protection sprinkler contractor desires to do business in any part of the state, he shall be required by this Act to deliver to the local building official a copy of his fire protection sprinkler contractor's license. The local building official shall require a copy of the license before issuing a license or building license and no local official shall impose any other competency requirements on the licensed fire protection sprinkler contractor.

(2) Nothing in this Act limits the power of a city, urban-county, county or state to regulate the quality and character of work performed by contractors, through a system of permits, fees and inspections which are designed to assure compliance with, and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety. Nothing in this Act limits the power of a city, urban-county, county or the state to adopt any system of permits requiring submission to and approval by the city, urban-county, county or the state of plans and specifications for work to be performed by contractors before commencement of the work. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler contractor is duly licensed by requiring evidence of a valid fire protection sprinkler contractor's license.

(3) This Act applies to any fire protection sprinkler contractor performing work for any city, urban-county, special district, county, or the state. Officials of any city, urban-county, special district, county or the state are required to determine compliance with this Act before awarding any contracts for the installation, repair, alteration, addition, or inspection of a fire protection sprinkler system. Bids for such work shall be accompanied by a copy of a valid fire protection sprinkler contractor's license.

SECTION 14. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

All license and certificate fees and charges collected by the commissioner under the provisions of the Act and the rules and regulations of the commissioner adopted hereunder, shall be paid to the state treasury and credited to a trust and agency fund to be used by the commissioner's office in carrying out the provisions of this Act. Any money in the trust and agency fund at the end of the fiscal year shall lapse to the general fund of the Commonwealth.

SECTION 15. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may refuse to renew or may suspend or revoke the license of a licensed fire protection sprinkler contractor or the certificate of a certificate holder to engage in the business of fire protection sprinkler systems or in lieu thereof establish an administrative fine not to exceed five hundred dollars ($500) for any of the following reasons:

(a) Gross incompetency or gross negligence in the installation, repair, alteration, maintenance, inspection or addition to fire protection sprinkler systems, as determined by the commissioner;

(b) Conviction of a felony;

(c) Fraudulent or dishonest practices while engaging in the business of fire protection sprinkler systems;

(d) Use of false evidence or misrepresentation in an application for a license or certificate;

(e) Signing or affixing his seal to any plans, prints, specifications or reports, which have not been prepared by him personally or under his immediate supervision, or in violation of this Act;

(f) Knowingly violating any provisions of this Act or the regulations issued thereunder.

(2) The commissioner shall revoke the license of a licensed fire protection sprinkler contractor or a certificate holder who engages in the fire protection sprinkler system business while his or its license is suspended.

(3) Any license or certificate holder who is aggrieved by an order of the commissioner suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal to the Franklin circuit court or the circuit court of the county of the license or certificate holder's place of business.

SECTION 16. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Whenever, in the judgment of the commissioner, any person has engaged, or is about to engage, in any acts of practices that constitute, or will constitute a violation of the provisions of this Act, the commissioner may inform the attorney general, who may make application to the Franklin circuit court for an order enjoining such acts or practices. Additionally, the commissioner may issue a cease and desist order, the violation of which shall be cause for suspension or revocation as provided for in Section 15 of this Act. Upon showing via the commissioner that such person has engaged, or is about to engage, in any such acts or practices, an injunction or restraining order, or such other order as may be appropriate, shall be granted by such court. Any order of the Franklin circuit court shall be enforceable and shall be valid anywhere in this Commonwealth and the order of either court shall be reviewable as provided for in the rules of civil procedure, in the case of other injunctions and restraining orders.

SECTION 17. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall apply to the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of fire protection sprinkler systems other statutes notwithstanding.

SECTION 18. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Failure to comply with any order under Section 16 of this Act or the violation of this Act or any regulation issued thereunder shall constitute a Class B misdemeanor.

HB 562, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.340 is amended to read as follows:

A special agent's or solicitor's license may be issued to a duly authorized representative, employe or agent of, or solicitor for a distiller, rectifier, vintner or wholesaler licensed in Kentucky or by the state of his residence and by the United States if a resident therein. Such license shall authorize the licensee to offer for sale and to solicit orders for the sale of any alcoholic beverage sold by a distiller, rectifier, vintner or wholesaler who is licensed in Kentucky or who is a nonresident. The license shall set forth the name, address and, unless the vendor is a nonresident, the license numbers of the vendors the agent or solicitor represents, as well as the name, address and license number of the agent or solicitor. An agent or solicitor shall not represent any vendor or licensee whose name does not appear upon the license. *Every nonresident vendor licensed under the provisions of KRS 243.030(14) shall post a surety bond of five hundred dollars ($500) with the administrator of the distilled spirits unit.*

The Committee on Natural Resources and Environment reported **HB 542** with Committee Amendment attached thereto, **HB 543** with Committee Amendment attached thereto, **HB 662** with Committee Amendment attached thereto, and **HB 664** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 542, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 352.120 TO 352.130 IS CREATED TO READ AS FOLLOWS:

Each operator shall provide lifeline cords, with reflective material at twenty-five (25) foot intervals, from the last open crosscut to the surface along a designated escapeway ventilated by return air; provided, that in case of a shaft mine, such lifeline cords shall extend from the last open crosscut to the bottom of the designated escape shaft. Such lifeline cord shall be of durable construction sufficient to allow miners to see and to use effectively to guide themselves out of the mine in the event of an emergency.

The Committee Amendment No. 1 to **HB 542** is as follows:

Amend printed copy of **HB 542** on page 1, line 3, by inserting the following before the word "*Each*": "*Where return airways are designated as escapeways,*"

And on page 1, line 4, insert the word "*attached*" before the word "*reflective*"

And on page 1, line 4, insert the words "*not to exceed*" before the words "*twenty-five*"

And on page 1, lines 5 and 6, by deleting the words "*along a designated escapeway ventilated by return air*"

HB 543, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.127 is amended to read as follows:

(1) A certified emergency medical technician trained as defined by the commissioner with such training provided for by the commissioner shall be employed at every coal mine with twenty-five (25) or more employes engaged in the extraction, production, or preparation of coal. An additional emergency medical technician shall be employed for every additional one hundred (100), or majority fraction thereof, employes who are engaged in the extraction, production, or preparation of coal. If these emergency medical technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(2) If the operator does not have a sufficient number of certified emergency medical technicians in his employ to meet the requirements of subsection (1) of this section, persons to be trained as emergency medical technicians shall be selected from the operator's existing employes by the operator from the employes engaged in the extraction, production, or preparation of coal. Persons so selected who attend training requisite to becoming an emergency medical technician shall be paid their regular wages during training.

(3) Certified emergency medical technicians shall receive sixteen (16) hours of annual retraining during which they shall receive their regular wages.

The Committee Amendment No. 1 to **HB 543** is as follows:

Amend printed copy of **HB 543** on page 2, line 8, by deleting "*sixteen (16)*" and substituting therefor "*eight (8)*"

HB 662, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding under the direction of the commissioner in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine in his district at least once every six (6) months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist, making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in those gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal and clay; [~~and~~]

(8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal or clay mine at any reasonable time*; and*

(9) A miner representative shall be allowed to travel with and assist the mine inspector in making his inspection of the mine, and such miner representative shall lose no pay while performing this inspection and he shall be paid by his employer for assisting the state inspector at regular pay rate.

The Committee Amendment No. 1 to **HB 662** is as follows:

Amend printed copy of **HB 662** on page 2, line 26, by deleting the following: "*, and such miner representative*"

And on page 3, by deleting lines 1, 2, and 3 in their entirety with the exception of the "." on line 3

HB 664, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.127 is amended to read as follows:

(1) A certified emergency medical technician trained as defined by the commissioner with such training provided for by the commissioner shall be employed at every coal mine *regardless of number of* [~~with twenty-five (25) or more~~] employes engaged in the extraction, production, or preparation of coal. [~~An additional emergency medical technician shall be employed for every additional one hundred (100), or majority fraction thereof, employes who are engaged in the extraction, production, or preparation of coal.~~] If these emergency medical technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(2) If the operator does not have a sufficient number of certified emergency medical technicians in his employ to meet the requirements of subsection (1) of this section, persons to be trained as emergency medical technicians shall be selected from the operator's existing employes by the operator from the employes engaged in the extraction, production, or preparation of coal. Persons so selected who attend training requisite to becoming an emergency medical technician shall be paid their regular wages during training.

The Committee Substitute to **HB 664** is as follows:

HB 664, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.127 is amended to read as follows:

(1) A certified emergency medical technician trained as defined by the commissioner with such

training provided for by the commissioner shall be employed at every coal mine *employing two (2) to twenty-five (25)* [~~with twenty-five (25) or more~~] employes engaged in the extraction, production, or preparation of coal. An additional emergency medical technician shall be employed for every additional one hundred (100), or majority fraction thereof, employes who are engaged in the extraction, production, or preparation of coal. *Any mine without a certified emergency medical technician trained as defined by the commissioner shall be allowed ninety (90) days to employ a certified emergency medical technician and may continue to operate during this ninety (90) day period.* If these emergency medical technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(2) If the operator does not have a sufficient number of certified emergency medical technicians in his employ to meet the requirements of subsection (1) of this section, persons to be trained as emergency medical technicians shall be selected from the operator's existing employes by the operator from the employes engaged in the extraction, production, or preparation of coal. Persons so selected who attend training requisite to becoming an emergency medical technician shall be paid their regular wages during training.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committe consideration:

Education: **HB 787, HB 771, HB 766, HB 757.**

Judiciary-Civil: **HB 307, SB 133, HB 646, HB 659, HB 701, HB 780, HB 755, HB 299, HB 304, HB 485, HB 682.**

Banking and Insurance: **HB 821, HB 829, HB 826, HB 603, HB 366.**

Agriculture and Small Business: **HB 758.**

Transportation: **SB 16.**

Natural Resources and Environment: **HB 790.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Banking and Insurance: **HB 55, HB 58, HB 64, HB 206, HB 327, HB 328, HB 359, HB 452.**

Energy: **HB 696.**

Motions, Petitions, and Communications (continued)

Representative Ellington moved that he be recorded as voting "yea" on **HB 17, HB 602, SB 65, SR 14, HB 273, HB 34, HB 35,** and **HB 229.** Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Brinkley, **HB 821**; Representative Ellington, **HB 76**; Representative Johnson, **HB 76**; Representative LeMaster, **HB 787**; Representative Morris, **HB 821**; Representative Riner, **HB 76**; Representative F. Smith, **HB 320.**

The following members filed requests to have their names withdrawn as co-sponsors of Bills: Representative Hines, **HB 684**; Representative Handy, **HB 684.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 263,** by Representative Endicott:

Amend printed copy of Committee Substitute to **HB 263** on page 4, line 1, by inserting after the word "*method*" and before the "," the following: "*and presently in the business of drilling wells using this method*"

And on page 4, line 2, after the word "*method*" and before the ";" the following: "*and presently in the business of drilling wells using this method*"

And on page 4, line 2, after the word "*method*" and before the ";" the following: "*and presently in the business of drilling wells using this method*"

Floor Amendment No. 2 to **HB 263,** by Representative Stone:

Amend printed copy of Committee Substitute to **HB 263** on page 7, line 18, by inserting after the date "*July 1, 1985.*" the following new subsection: "*(4) Those persons who are water witchers, dowsers, diviners and any others who use divining rods for the purpose of locating underground water resources shall be exempt from this Act.*; and

On page 7, line 19, by deleting "*(4)*" and substituting therefor "*(5)*"

Floor Amendment No. 1 to **HB 310,** by Representative Overstreet:

Amend printed copy of Committee Substitute to **HB 310** on page 16, after line 7 by adding the following:

"Section 15. KRS 431.515 is amended to read as follows:

(1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pretrial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550 and, where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.

(2) The *jailer or his designee shall* [~~Supreme Court may by appropriate rule or order establish and~~] provide for such pretrial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120. *The Supreme Court may by appropriate rule establish guidelines for pretrial release.*"

Floor Amendment No. 2 to **HB 404,** by Representative Long:

Amend printed copy of **HB 404** on page 3, line 14, delete the word "*proferssional*" and insert the word "*professorial*" in lieu thereof.

On page 3, lines 16 and 17, delete the word "*professional*" and insert the word "*professorial*" in lieu thereof.

On page 4, lines 19 and 20, after the word "members" insert the following:

"*and the one (1) member representing the cooperative extension agents and specialists*"

Floor Amendment No. 1 to **HB 517,** by Representative Freibert:

Amend printed copy of **HB 517,** on page 3, after line 2, by inserting the following language:

"Section 3. KRS 243.120 is amended to read as follows:

A distiller's, rectifier's or vintner's license shall authorize the licensee to engage in the business of distiller, rectifier, or vintner at the premises specifically designated in the license and to transport for himself only any alcoholic beverage which he is authorized under the license to manufacture or sell. Such licensee shall transport alcoholic beverages only by a vehicle owned and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, *unless the onwer of such truck or vehicle holds a distributor's license.*

Section 4. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located, import a non-U.S. brand malt beverage from an importer or wholesaler registered with the Kentucky Department of Revenue; or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employes for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, *unless the owner of such truck or vehicle holds a wholesaler's license.*

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

Floor Amendment No. 1 to **HB 632,** by Representative Burnette:

Amend printed copy of **HB 632** on page 2, line 23, by deleting the words "*knowledgeable about*" and inserting in lieu thereof the word "*researching*"; and

On page 2, line 24, by deleting the words "*research on*"; and

On page 2, lines 24, 25 and 26, by deleting "*a member of the division of emergency and disaster services of western Kentucky,*"; and

On page 3, lines 3 and 4, by deleting "*Kentucky rivers coalition*" and inserting in lieu thereof "*school of technology safety division at Murray State University*"; and

On page 3, line 6, by deleting "*society*" and inserting in lieu thereof the word "*board*"; and

On page 3, line 7, by inserting before the word "*architects*" the words "*American institute of*"; and

On page 3, line 9, by inserting before the word "*and the following: "a member of the school of civil engineering at the University of Louisville, a member of banking and insurance,*"; and

On page 4, line 11, after the word "*the*" and before the word "*division*", by inserting "*office of the governor.*"; and

On page 4, line 11, by deleting "*division of disaster and emergency services in the*"; and

On page 4, lines 12, 13 and 14, by deleting those lines in their entirety.

Adjournment

Representative LeMaster moved that the House adjourn until 10:00 a.m., Friday, March 2, 1984.

On the roll call the vote was yeas 74-Allen, Arnold, Barrows, Bendl, Bennett, Blevins, Bronger, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Farrow, Ford, Foster, Freibert, Fryman, Gray, Guenthner, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, McBee, McElroy, Meyer, Moberly, Nett, Noe, Noland, Overstreet, Pearman, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Maggard.

The motion to adjourn was adopted.

FRIDAY, MARCH 2, 1984

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend George H. Hobbs, Sr., St. Mark United Methodist Church, Campbellsville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 1, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 87, SB 199, SB 243, SB 255, SB 267, SB 273, SB 275, SB 276, SB 277, SB 280, HB 36** with Senate Amendment, **HB 41** with Senate Amendment, **HB 14, HB 282, HB 316,** and **HB 467**.

SB 92 returned with the following letter: The Senate has refused to concur in the House Amendments and respectfully requests that the House recede from its Amendments.

Introduction of Bills and Resolutions

HB 894, by Representatives Rapier, Bronger, Yates, Petty, Donnermeyer, Cowan, Heleringer, Lundergan, and List: AN ACT relating to the equine industry.

HB 895, by Representatives Noland, Brinkley, Bennett, Endicott, Ford, Fryman, and Todd: AN ACT relating to fish and wildlife.

HB 896, by Representative Van Horn: AN ACT relating to cost-of-living increments for police and firefighter retirees in urban-county government.

HB 897, by Representative White: AN ACT relating to motor vehicle insurance.

HB 898, by Representative White: AN ACT relating to insurance.

HB 899, by Representative Clapp: AN ACT relating to volunteer fire department aid fund.

HB 900, by Representatives Lundergan, Gedling, Crupper, and P. Clark: AN ACT relating to court costs.

HB 901, by Representative Lundergan: AN ACT relating to insurance.

HB 902, by Representative Farrow: AN ACT relating to hospital and medical insurance.

HB 903, by Representative Burch: AN ACT relating to filing fees assessed by the Kentucky board of tax appeals.

HB 904, by Representative Caldwell: AN ACT relating to venue and change of venue.

HB 905, by Representatives Reinhardt, Overstreet, Todd, and Mann: AN ACT relating to inheritance taxes.

HB 906, by Representatives Reinhardt, Overstreet, and Mann: AN ACT relating to inheritance taxes.

HB 907, by Representative Gray: AN ACT relating to securities.

HB 908, by Representatives LeMaster, B. Richardson, Clapp, Clarke, R. Jones, Cowan, Richards, List, Long, and Deskins: AN ACT relating to education.

HB 909, by Representatives LeMaster, B. Richardson, Clapp, Clarke, Cowan, R. Jones, Richards, List, Long, and Deskins: AN ACT relating to school discipline and school dropouts.

HB 910, by Representative Richards: AN ACT relating to credits allowed to a transferred district employe.

HB 911, by Representatives LeMaster, B. Richardson, Clapp, Clarke, Cowan, R. Jones, Richards, List, Long, and Deskins: AN ACT relating to the elections of members for local boards of education.

HB 912, by Representative LeMaster, B. Richardson, Clapp, Clarke, Cowan, R. Jones, Richards, List, Long, and Deskins: AN ACT relating to student competency and making an appropriation therefor.

HB 913, by Representatives LeMaster, B. Richardson, Clapp, Clarke, Cowan, R. Jones, Richards, List, Long, and Deskins: AN ACT relating to a career ladder for teachers and making an appropriation therefor.

HB 914, by Representative Kidd: AN ACT relating to insurance.

HB 915, by Representatives LeMaster, B. Richardson, Clapp, Clarke, Cowan, Richards, List, Long, Deskins, and R. Jones: AN ACT relating to scholarships for remedial teachers and making an appropriation therefor.

HB 916, by Representative Lundergan: AN ACT relating to insurance.

HB 917, by Representative R. Jones: AN ACT relating to prisons.

HB 918, by Representative Burnette and Brinkley: AN ACT relating to agriculture.

HB 919, by Representative T. Jones: AN ACT relating to correctional educator's salary schedule and declaring an emergency.

HB 920, by Representatives T. Jones, Barrows, Farrow, Crupper, Rapier, Hancock, and Long: AN ACT relating to state personnel.

HB 921, by Representative T. Jones: AN ACT relating to elementary and secondary education.

HB 922, by Representatives T. Jones, Barrows, Farrow, Crupper, Hancock, Rapier, and Long: AN ACT relating to state personnel.

HB 923, by Representative T. Jones: AN ACT relating to elementary and secondary education.

HB 924, by Representative Lundergan: AN ACT relating to the Kentucky athletic commission.

HB 925, by Representative Lundergan: AN ACT relating to public questions and constitutional amendments appearing on the ballot.

HB 926, by Representatives LeMaster, Overstreet, Cline, Harper, and McBee: AN ACT relating to commercial rights to use the names and likenesses of public figures.

HB 927, by Representative Arnold: AN ACT relating to jails.

HB 928, by Representatives Long, Farrow, Hancock, Rapier, Crupper, T. Jones, and Barrows: AN ACT relating to state personnel.

HB 929, by Representatives Long, Farrow, Hancock, Rapier, Crupper, T. Jones, and Barrows: AN ACT relating to state personnel.

HB 930, by Representative Priddy: AN ACT relating to aliens.

HB 931, by Representative Head: AN ACT relating to coal mining.

HB 932, by Representative Clarke: AN ACT relating to revenue and taxation and declaring an emergency.

HB 933, by Representative Clarke: AN ACT relating to revenue and taxation and declaring an emergency.

HB 934, by Representative Lundergan: AN ACT relating of insurance.

HB 935, by Representative Johnson: AN ACT relating to domestic relations.

HB 936, by Representatives Hancock, T. Jones, Farrow, Crupper, Rapier, Long, and Barrows: AN ACT relating to state personnel.

HB 937, by Representative P. Richardson: AN ACT relating to banking.

HB 938, by Representative Handy, Perkins, Hines, Head, P. Clark, Nett, and Seum: AN ACT relating to utility rate changes.

HB 939, by Representative Little: AN ACT relating to motor carriers.

HB 940, by Representatives T. Jones, Hancock, Farrow, Crupper, Long, and Barrows: AN ACT relating to state personnel.

HB 941, by Representatives Hancock, T. Jones, Long, Farrow, Crupper, Rapier, Brinkley, Moberly, and Barrows: AN ACT relating to state personnel.

HB 942, by Representatives Barrows, T. Jones, Long, Farrow, Crupper, Rapier, Brinkley, Hancock: AN ACT relating to state personnel.

HB 943, by Representatives Hancock, T. Jones, Farrow, Long, Crupper, Rapier, and Moberly: AN ACT relating to state personnel.

HB 944, by Representative Cowan: AN ACT relating to Kentucky schools personnel, and making an appropriation therefor.

HB 945, by Representatives Hancock, Barrows, Farrow, Long, Crupper, Rapier, Brinkley, and T. Jones: AN ACT relating to state personnel.

HB 946, by Representative Brown: AN ACT relating to limited contracts for teachers.

HB 947, by Representative Bendl: AN ACT relating to health facilities.

HB 948, by Representative LeMaster: AN ACT relating to the budget.

HB 949, by Representative Bendl: AN ACT relating to health facilities.

HB 950, by Representatives LeMaster and Fryman: AN ACT relating to overtime exemptions.

HB 951, by Representative LeMaster: AN ACT relating to justice.

HB 952, by Representative Bendl: AN ACT relating to long-term care facilities.

HB 953, by Representative LeMaster: AN ACT relating to revenue and taxation.

HB 954, by Representative LeMaster: AN ACT relating to labor and industry.

HB 955, by Representative Bendl: AN ACT relating to inspections of licensed or unlicensed health facilities.

HB 956, by Representative Bendl: AN ACT relating to health facilities.

HB 957, by Representatives Cyrus and Holloway: AN ACT relating to the assumption of the liabilities of the workers' compensation special fund.

HB 958, by Representative Bendl: AN ACT relating to health facilities.

HB 959, by Representative Worthington: AN ACT relating to inheritance taxes.

HB 960, by Representative Worthington: AN ACT relating to low-level radioactive waste disposal.

HB 961, by Representative Worthington: AN ACT relating to higher education.

HB 962, by Representative Worthington: AN ACT relating to taxation.

HB 963, by Representatives Kenton, Donnermeyer, and Meyer: AN ACT proposing to amend the Kentucky Constitution relating to public officers.

HB 964, by Representative LeMaster: AN ACT relating to human resources.

HB 965, by Representative F. Smith: AN ACT relating to scientific and technical assistance to industry.

HB 966, by Representatives Meyer, Donnermeyer, Van Horn, and Bennett: AN ACT relating to local government finance.

HB 967, by Representatives Cowan, Noe, Hines, and Barrows: AN ACT relating to education finance.

HB 968, by Representative Noland, Maggard, Fryman, and Ford: AN ACT relating to county roads.

HB 969, by Representatives Endicott, Ford, Noland, Fryman, Turner, Holloway, Todd, Lefevers, and Patrick: AN ACT relating to leasing school building.

HB 970, by Representatives Endicott, Turner, Overstreet, Allen, and Holloway: AN ACT proposing to amend the Constitution of Kentucky relating to sessions of the General Assembly.

HB 971, by Representative Rapier: AN ACT relating to ecological sanctuaries.

HB 972, by Representatives Reinhardt and Mann: AN ACT relating to the foundation program.

HB 973, by Bennett and Van Horn: AN ACT relating to collective bargaining for public employes and public employers.

HB 974, by Representative Hancock and T. Jones: AN ACT relating to service credit in the Kentucky employes retirement system.

HB 975, by Representatives Barrows, T. Jones, Long, Farrow, and Arnold: AN ACT relating to state personnel.

HB 976, by Representatives Barrows, Hancock, Long, Farrow, and T. Jones: AN ACT relating to state personnel.

HB 977, by Representatives Barrows, Hancock, Long, Farrow, and T. Jones: AN ACT relating to state personnel.

HB 978, by Representative Barrows, Hancock, Long, Farrow, Arnold, and T. Jones: AN ACT relating to state personnel.

HB 979, by Representatives Barrows, Hancock, Long, Farrow, and T. Jones: AN ACT relating to state personnel.

HB 980, by Representative Barrows: AN ACT relating to a single salary schedule for personnel in schools operated by the department of education.

HB 981, by Representative Barrows: AN ACT relating to education of state agency children.

HB 982, by Representative Barrows: AN ACT relating to scenic easements.

HB 983, by Representative Hancock: AN ACT relating to oil and gas.

HB 984, by Representatives Donnermeyer and Hancock: AN ACT relating to the department of banking and securities.

HB 985, by Representatives B. Smith and Hancock: AN ACT relating to insurance.

HB 986, by Representative Barrows: AN ACT relating to the school building authority.

HB 987, by Representatives Hancock, Barrows, P. Richardson, Crupper, Farrow, Moberly, Noland, T. Jones: AN ACT relating to state parks.

HB 988, by Representative Barrows: AN ACT relating to shootings.

HB 989, by Representatives Barrows and Crupper: AN ACT relating to farm property and declaring an emergency.

HB 990, by Representatives Barrows, Long, and Farrow: AN ACT relating to state personnel.

HB 991, by Representative Crupper: AN ACT relating to radiation control.

HB 992, by Representative Bennett: AN ACT relating to unemployment insurance.

HB 993, by Representative Patrick: AN ACT relating to the rights of employes.

HB 994, by Representative LeMaster: AN ACT relating to courts.

HB 995, by Representative Kenton: AN ACT relating to personal needs allowance.

HB 996, by Representative Clarke: AN ACT relating to revenue and taxation and making an appropriation therefor.

HB 997, by Representative Bendl: AN ACT relating to health.

HB 998, by Representatives Bendl and Meyer: AN ACT relating to long-term care facilities.

HB 999, by Representative Bendl: AN ACT relating to public health policy research.

HB 1000, by Representatives Cyrus and Gray: AN ACT relating to workers' compensation.

HR 91, by Representative McNutt: A RESOLUTION honoring the Kentucky tourism industry.

HJR 92, by Representative McNutt: A JOINT RESOLUTION designating the Louisville Ballet Company as the official ballet company of the Commonwealth of Kentucky.

HJR 93, by Representatives Cyrus and Holbrook: A JOINT RESOLUTION directing the Department of Highways to name the soon to be constructed Greenup Dam Bridge in memory of Jesse Stuart.

HCR 94, by Representative Holbrook: A CONCURRENT RESOLUTION establishing a Municipal Pension Study Commission.

HJR 95, by Representative Cline: A JOINT RESOLUTION designating Paul Salyers as a Poet Laureate.

HCR 96, by Representative Arnold: A CONCURRENT RESOLUTION requiring a study of motor vehicle licensing and usage tax collection.

HCR 97, by Representative B. Richardson: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

HJR 98, by Representative Cowan: A JOINT RESOLUTION creating the Kentucky Task Force on Education and Economic Development.

HJR 99, by Representatives Cowan, Brinkley, Holbrook, McElroy, Deskins, and Dawahare: A JOINT RESOLUTION directing the creation of a task force to study the feasibility of establishing a coal commodity trading exchange in Kentucky.

HR 100, by Representative Worthington: A RESOLUTION amending Rule 44 of the Rules of the House of Representatives.

HJR 101, by Representative Worthington: A JOINT RESOLUTION declaring the policy of Kentucky in managing the low level radioactive waste generated in the Commonwealth.

HR 102, by Representative Worthington: A RESOLUTION amending Rule 49 of the Rules of the House of Representatives.

HR 103, by Representative Worthington: A RESOLUTION amending Rule 39 of the Rules of the House of Representatives.

HR 104, by Representative Worthington: A RESOLUTION amending Rule 68 of the Rules of the House of Representatives.

HCR 105, by Representatives Rapier, Hancock, Long, Crupper, Farrow, and T. Jones: A CONCURRENT RESOLUTION authorizing and directing a comprehensive study by the Legislative Research Commission of the types of appointments made and employment registers used by the department of personnel of the Commonwealth of Kentucky.

HJR 106, by Representative Barrows: A JOINT RESOLUTION urging the Attorney General to investigate new motor vehicle dealer practices and prevent dealers from assessing the consumer miscellaneous charges unless those specific costs are represented as a part of the transaction.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 840, HB 870, HB 871, HB 879, HB 887, HB 834.**

Banking and Insurance: **HB 838, HB 860, HB 862, HB 885.**

Business Organizations and Professions: **HB 844.**

Cities: **HB 874, HB 883, HB 865.**

Counties and Special Districts: **HB 855, HB 886, HB 889.**

Education: **HB 833, HB 866, HB 884, HB 893, HCR 90.**

Energy: **HB 876, HB 881, HB 890, HB 850.**

Health and Welfare: **HB 839, HB 845, HB 846, HB 859, HB 867, HB 880.**

Judiciary-Civil: **HB 843.**

Judiciary-Criminal: **HB 856, HB 863, HB 837.**

Labor and Industry: **HB 854, HB 878.**

Natural Resources and Environment: **HB 857, HB 868, HB 877, HB 888.**

State Government: **HB 864, HB 835, HB 836, HB 841, HB 842, HB 847, HB 851, HB 852, HB 853, HB 861, HB 873, HB 875, HB 882, HB 891, HB 892, HJR 87, HCR 89.**

Transportation: **HB 849, HB 858, HB 869, HB 872.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 727.**

Appropriations and Revenue: **HB 38, HB 486, HB 671, HB 621, HB 363, SCR 6.**

Counties and Special Districts: **HB 814, HB 804, HB 781, HB 438, HB 800, HB 812, HB 717, SB 270, SB 209.**

Health and Welfare: **HB 116, HB 155, HB 531, HB 609, HB 714, HB 737, HB 747, HB 759, HB 772, HJR 72, HR 73.**

State Government: **HB 21, HB 702, HB 811, HB 749, HB 515, HB 760, HB 615, HR 63, HR 50, HB 743, HR 66, HB 706, HB 545, HB 847.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Counties and Special Districts: **HB 27.**

Report of Committees

The Committee on Rules reported **HB 263, HB 489, HB 514, HB 553, HB 571, HB 639, HB 640, HB 670, HB 707, HR 61, HB 391, HB 297, HB 404, HB 415, HB 536,** and **HB 548** have been posted for passage in Orders of the Day, March 5, 1984.

The Committee on Rules reported **HB 457** and **HB 718** have been recommitted to the Committee on Appropriations and Revenue.

The Committee on Counties and Special Districts reported **HB 507, HB 546, HB 552** with Committee Amendment attached thereto, **HB 616,** and **HB 620** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 507, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.510 is amended to read as follows:
As used in KRS 78.520 to 78.852, unless the context otherwise requires:
(1) "System" means the county employes retirement system;
(2) "Board" means the board of trustees of the system as provided in KRS 78.780;
(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county *and the coroner of a participating county, whether or not he qualifies as a regular full-time officer.* The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; and

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system.

HB 546, AN ACT relating to nonelective peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) He has resided in the county wherein he is appointed to serve for a period of at least*:*

(a) Two (2) years *in the case of deputy constables and special local peace officers appointed pursuant to KRS 61.360; or*

(b) Six (6) months, which need not have been immediately prior to his appointment, in the case of deputy sheriffs;

this subsection shall apply only to deputy sheriffs, deputy constables, and to special local peace officers appointed pursuant to KRS 61.360;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

HB 552, AN ACT relating to disposal of surplus or excess property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.425 is amended to read as follows:

(1) A local public agency may sell or otherwise dispose of any personal property which is not needed or has become unsuitable for public use, or which would be suitable, consistent with the public interest, for some other use.

(2) A written determination as to need of suitability of any personal property of the local public agency shall be made; and such determination shall fully describe the personal property; its intended use at the time of acquisition; the reasons why it is in the public interest to dispose of the item; and the method of disposition to be used.

(3) Surplus or excess personal property as described in this section may be transferred, with or without compensation, to another governmental agency; or it may be sold at public auction or by sealed bids in accordance with KRS 45A.365.

(4) In the event that a local public agency receives no bids for surplus or excess personal property, either at public auction or by sealed bid, such property may be disposed of with or without compensation in any manner deemed appropriate by the local public agency. In such instances, a written description of the property and the method of disposal shall be made.

The Committee Amendment No. 1 to **HB 552** is as follows:

Amend printed copy of **HB 552** on page 2, line 3, by deleting "*with or without compensation in any*";

and on page 2, lines 4 through 6, by deleting all of lines 4 through 6;

and on page 2, line 3, by inserting after "*of*" the following:

"*, consistent with the public interest, in any manner deemed appropriate by the local public agency. In such instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made. Any compensation resulting from the disposal of surplus or excess personal property shall be transferred to the general fund of the local public agency.*".

HB 616, AN ACT relating to sanitation districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 220 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal court may:

(a) Review and approve, amend or disapprove proposed district land acquisitions;

(b) Review and approve, amend or disapprove proposed district construction of capital improvements;

(c) Review and approve, amend or disapprove proposed service charges or user fees; and

(d) Review and approve, amend or disapprove the district's proposed budget.

(2) In order to exercise any or all the powers enumerated in subsection (1) of this section, the fiscal court shall adopt a county ordinance explicitly stating which of the powers the fiscal court intends to exercise and setting forth the procedures by which the sanitation district shall submit plans and documentation for review and approval, amendment or disapproval. The exercise of such powers shall become effective thirty (30) days following the effective date of the ordinance. In the case of districts lying in two (2) or more counties, no fiscal court shall exercise the powers enumerated in subsection (1) of this section until each fiscal court has adopted conforming ordinances stating the powers to be exercised.

(3) In the case of districts lying in two (2) or more counties, the votes of the respective fiscal courts shall be weighted in the same manner as appointments to the district board are apportioned pursuant to KRS 220.140.

HB 620, AN ACT relating to fiscal courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.050 is amended to read as follows:

(1) Any county may have a fiscal court consisting of the county judge/executive and three (3) commissioners elected from the county at large. To ascertain whether the county desires to have county commissioners, the county judge/executive, upon an application by written petition signed by one hundred (100) legal voters of the county, shall enter an order on his order book calling an election to submit to the legal voters of the county the following question: "Are you for or against having a fiscal court composed of three (3) commissioners and the county judge/executive?" The order shall be entered at the next regular term after the petition is filed, and shall direct the election to be held at the next regular election to be held in the county that does not occur within less than sixty (60) days from the filing of the petition. The county clerk shall give to the sheriff or other officer appointed to hold the election a certified copy of the order within five (5) days after the order is made, and the sheriff or other officer shall have the order published pursuant to KRS chapter 424 and in addition advertise it by printed handbills posted at one or more conspicuous places in each precinct in the county for the length of time that publication is required, stating when the election will be held and the purpose thereof.

(2) All such elections shall be held under the general election laws. No such election shall be held in any county *more often* [~~oftener~~] than once in four (4) years.

(3) Any county that has voted in favor of having county commissioners may return to its prior form of government by following the same procedures as provided in subsections (1) and (2) of this section, by which it chose to have county commissioners. *A petition for an election on a return to a fiscal court composed of justices of the peace and the county judge/executive shall state a proposed number of justices of the peace. The question to be submitted to the voters shall be in the following form: "Are you in favor of a return to a fiscal court composed of the county judge/executive and (insert the proposed number of justices) justices of the peace who shall represent specific districts within the county?"*

(4) If a majority of the votes cast at an election held under subsection (3) of this section are in favor

of a return to a fiscal court composed of justices of the peace and the county judge/executive, the fiscal court shall, if necessary, initiate proceedings to reapportion the justices districts, and such reapportionment shall conform to the requirements of KRS 67.045. The change in the composition of the fiscal court shall become effective upon the assumption of office of justices of the peace elected at the next regular election for that office.

Section 2. KRS 67.060 is amended to read as follows:

(1) If a majority of the votes cast at an election held under KRS 67.050 are in favor of the fiscal court being composed of the county judge/executive and three (3) commissioners, the county judge/executive shall, before the next regular election for county officers, divide the county into three (3) districts as nearly equal in population as practicable, and shall establish the boundary lines of each of the three (3) commissioner districts so that each district is an unbroken area and not split or divided by another commissioner district. At the next regular election for county officers, and every four (4) years thereafter, there shall be elected by the voters of the entire county three (3) commissioners, one (1) from each district who, with the county judge/executive, shall constitute the fiscal court.

(2)(a) In any county containing a city of the first class, which county has heretofore voted in favor of a fiscal court composed of the county judge/executive and three (3) county commissioners, the county judge/executive shall divide the county into three (3) districts as provided in subsection (1), the districts to be designated for identification purposes by the letters A, B and C, respectively.

(b) The three (3) commissioners shall be elected by the qualified voters of the county at large at regular elections held every four (4) years. One commissioner shall represent District A and shall be elected at the regular election in the year 1973, and two (2) commissioners who shall represent Districts B and C, respectively, shall be elected at the regular election in the year 1975.

(3) Persons seeking the nomination of a political party as candidate for the office of county commissioner shall, where a primary election is required for such political party, be voted upon exclusively by the eligible voters of the district in which the person resides and seeks to represent. Persons seeking the nomination of a minor political party, persons who file as independent candidates or persons seeking the nomination in counties containing cities of the second class shall not be subject to the provisions of this paragraph. They shall be nominated by the voters of the entire county.

(4) To be eligible for election as a commissioner representing one of the three (3) districts, a person shall have been a bona fide resident of the district he proposes to represent for at least one (1) year immediately preceding the election, and, upon election, shall continue to reside within the district he was elected to represent for the duration of his term of office, under penalty of forfeiture of the office.

(5) Commissioners elected under this section shall take the oath of office and enter upon the discharge of their duties on the first Monday in January after their election, and shall serve for terms of four (4) years and until their successors are elected and qualify, *or until the effective date of a return to a fiscal court composed of justices of the peace and the county judge/executive.*

(6) No person is eligible to be a county commissioner unless he is at least twenty-four (24) years of age and has been for two (2) years next preceding his election a resident of the county and a citizen of Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class where the fiscal court is composed of justices of the peace and the county judge/executive, the county shall be divided into eight (8) justices' districts and the justice elected from each district shall be entitled a magistrate/representative.

Calendar

HB 700, HB 721, HB 76, HB 660, SB 24, SB 108, HB 238, HB 490, HB 619, HB 207, HB 376, HB 510, HB 547, HB 573, HB 574, HB 590, HB 644, HB 497, HB 565, HB 72, HB 179, HB 495, HB 562, HB 542, HB 543, HB 662, and **HB 664** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 330 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 330** be passed.

On the roll call the vote was yeas 73-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, Meyer, Moberly, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, White, Williams, Yates. Nays 18-Blevins, Brown, Cline, Dawahare, Endicott, Ford, Fryman, Heleringer, Maggard, McElroy, McNutt, Moore, Nett, Noland, Perkins, Robionson, Van Horn, Worthington.

HB 330 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 330** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 65** and **SCR 14** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:50 a.m.)

Orders of the Day (Continued)

SB 121 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **SB 121** be passed.

On the roll call the vote was yeas 82-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Worthington, Yates. Nays 7-Barrows, Farrow, Hancock, Maggard, Meyer, Rapier, White.

SB 121 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 121** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 598, with Committee Amendment and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Harper moved the adoption of the Committee Amendment No. 1 to **HB 598**. Agreed.

Representative Harper moved the adoption of the Floor Amendment No. 3 to **HB 598**. Agreed.

Representative P. Richardson moved the adoption of the Floor Amendment No. 1 to **HB 598**. Agreed.

Representative P. Richardson moved the adoption of the Floor Amendment No. 2 to **HB 598**. Agreed.

Representative P. Richardson moved that **HB 598**, as amended, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 598, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 598,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 26, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved the adoption of the Committee Substitute to **HB 26.** Agreed.

Representative T. Jones moved that **HB 26,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 86-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Ford, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, White, Williams, Yates. Nays 8-Cline, Dawahare, Endicott, Farrow, Fryman, Guenthner, Van Horn, Worthington.

HB 26, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 26,** way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 379, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Amendment to **HB 379.** Agreed.

Representative Gray moved that **HB 379,** as amended, be passed.

On the roll call the vote was yeas 88-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Lundergan, Maggard, McBee, McElroy, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 8-Donnermeyer, Guenthner, Hancock, T. Jones, Long, Mann, Meyer, Reinhardt.

HB 379, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 379,** as amended was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517, with Committee Amemdment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 517** be passed.

On the roll call the vote was yeas 78-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, Moberly, Morris, Nett, Noland, O'Brien, Pearman, Petty, Rapier, Rattliff, Richards, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, Yates. Nays 7-Deskins, Mann, McElroy, McNutt, Perkins, Priddy, Stumbo.

HB 517 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 517** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 240, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Committee Substitute to **HB 240.** Agreed.

Representative Holbrook moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 240.** Agreed.

Representative Holbrook moved that **HB 240,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Freibert.

HB 240, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 240,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 608, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 608** be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 1-T. Jones.

HB 608 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 608** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

The following meetings were announced:

Committee on Education: Special meeting, Wednesday, 10:00 a.m., Room 104.

Committee on State Government: Special meeting, Monday, 3:00 p.m., Room 109.

Committee on Counties and Special Districts: Public hearing, Tuesday, 9:30 a.m.

Representative Bruce moved that his name be withdrawn as a co-sponsor of **HB 597**. Agreed.

Representative Morris moved that **HB 597** be withdrawn. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 1001, by Representatives Allen, Stone, Deskins, and Brinkley: AN ACT relating to surface coal mining.

HB 1002, by Representative Bendl: AN ACT relating to the regulation of health facilities and health services.

HB 1003, by Representatives Clarke, Hancock, B. Richardson, and LeMaster: AN ACT relating to state employes.

HB 1004, by Representative Deskins: AN ACT relating to school districts.

HB 1005, by Representatives Freibert, Richards, and Cowan: AN ACT relating to income taxes.

HB 1006, by Representative Hancock: AN ACT relating to the financing of the commission on fire protection personnel standards and education.

HB 1007, by Representative Freibert: AN ACT relating to health insurance.

HB 1008, by Representatives Bronger and Heleringer: AN ACT relating to public utilities.

HB 1009, by Representatives Caldwell, Harper, and Petty: AN ACT relating to teachers' contracts.

HB 1010, by Representative Deskins: AN ACT relating to insurance.

HB 1011, by Representatives B. Smith and Gedling: AN ACT relating to insurance.

HB 1012, by Representative Holloway: AN ACT relating to the rights of employers.

HB 1013, by Representative Turner: AN ACT protecting against unwarranted intrusion.

HB 1014, by Representatives B. Smith and Gedling: AN ACT relating to the public service commission.

HB 1015, by Representatives B. Smith and Richards: AN ACT relating to solid waste disposal landfills.

HB 1016, by Representatives Freibert, B. Smith, P. Clark, and Richards: AN ACT relating to crippled children.

HB 1017, by Representative Holloway: AN ACT relating to service requirements for retirement.

HB 1018, by Representative Morris: AN ACT relating to administrative regulations.

HB 1019, by Representative LeMaster: AN ACT relating to the purchase of computers and related equipment and declaring an emergency.

HB 1020, by Representative Thomason: AN ACT relating to budget and financial administration.

HB 1021, by Representative Gray: AN ACT relating to justices and judges of the Court of Justice.

HR 107, by Representative Worthington: A RESOLUTION deleting Rule 41, and amending Rules 58 and 59 of the Rules of the House of Representatives.

HCR 108, by Representatives Bennett, Turner, Van Horn, Gray, Noland, Cyrus, Holloway, and Hancock: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Subcommittee on Veterans' Affairs.

HJR 109, by Representatives Blevins, Cline, Kidd, White, Mann, Barrows, Stone, Maggard, Noland, F. Smith, Noe, Burnette, Hines, Todd, Perkins, Brown, Williams, Bennett, and Seum: A JOINT RESOLUTION establishing a policy of maintaining and expanding universal telephone service in Kentucky.

HCR 110, by Representative Harper: A CONCURRENT RESOLUTION requesting and petitioning the Governor to establish a Task Force on Prescription Drug Abuse.

HCR 111, by Representatives B. Smith, Hancock, and Farrow: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the feasibility of combining the programs of pretrial release and probation and parole.

HR 112, by Representative Cyrus: A RESOLUTION honoring the Kentucky Society of Professional Engineers MATHCOUNTS programs.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 817.**

Energy: **HB 876, HB 600.**

Cities: **HB 825, SB 232.**

State Government: **HB 873.**

The Clerk announced the following Bills and resolutions have been withdrawn from Committee consideration:

Energy: **HB 84, HB 117, HB 135, HB 137, HB 222.**

Motions, Petitions, and Communications (Continued)

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **SB 215,** by Representative Guenthner:

Amend printed copy of **SB 215** on page 5, after line 10 by adding the following:

"SECTION 2. The following KRS sections are repealed:
317.410 Definitions.
317.420 Requirement that license be obtained.
317.430 Barber board -- Membership -- Compensation.
317.440 Barber board regulations.
317.450 Fees and qualifications for licenses.
317.460 Barber board hearings -- Procedure.
317.470 Barber board personnel and administration.
317.530 Disposition of fees and charges collected by board.
317.540 Requirement for barber schools.
317.560 Division of occupations and professions to assist board.
317.570 Examinations.
317.580 Sanitation requirements.
317.590 Grounds for refusal to issue or revocation of license.
317.991 Penalties.

Floor Amendment No. 4 to **HB 258**, by Representative Mann:

Amend printed copy of **HB 258** on page 1, line 11, after the word "*impairment*" by inserting the following: "*, or occupational disability, when subsection (c) of this section does not apply*";

on page 1, line 13, after the word "wage" by inserting the following ",";

on page 1, line 15, after the second word "by" by adding the following: "*the greater of either: 1. the*";

on page 1, line 15, by bracketing and striking through the word "his";

on page 1, line 19, after the word "Association" by inserting the following: "*; or, 2. the percentage of occupational disability as determined under KRS 342.620(11), " and by bracketing and striking through the following: ", 1977 edition, ";*

on page 1, line 21, by deleting the following ";;

on page 1, beginning on line 21, and ending on page 2, line 2, by bracketing and striking through the following: "or by his percentage of disability as determined under KRS 342.620(11), whichever is greater";

on page 2, line 13, after the word "disability" by inserting "*of twenty-five percent (25%) or greater*";

on page 2, line 25, by deleting "*paragraph*" and by inserting in lieu thereof "*subsection*".

Floor Amendment No. 2 to **HB 310**, by Representative Farrow:

Amend printed copy of Committee Substitute for **HB 310** on page 11, lines 22 and 23 by deleting the word "*superintendent*" and inserting in lieu thereof the word "*custodian*".

Floor Amendment No. 3 to **HB 310**, by Representative Arnold:

Amend printed copy of Committee Substitute for **HB 310** on page 10, line 1, after the word "*radios*" and before the period "." by inserting the following language: "*and lights of the color authorized by law enforcement vehicles pursuant to 189.910 to 189.950*";

on page 16, after line 7, by inserting the following language:

"Section15. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the state police, a public police department, [~~or~~] sheriff's office *or jailer*; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; ambulances; any vehicle commandeered by a police officer; or any motor vehicle used by a volunteer fireman while responding to an emergency.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 16. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad or publicly owned civil defense agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles, [~~and~~] all sheriffs' vehicles *and jailers' vehicles* used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) All public safety vehicles shall be equipped with one or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(4) Red flashing lights may be used by school buses.

(5) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal."

Floor Amendment No. 4 to **HB 310**, by Representative T. Jones:

Amend printed copy of Committee Substitute for **HB 310** on page 8, line 25 by deleting "*may* and inserting "*is*" in lieu thereof:; and

on page 8, line 26 by deleting line 26 in its entirety and inserting in lieu thereof "*a minimum of seven (7) hours for the purpose working at his employment, attending an educational institution or conducting other business pursuant to a court order, or when a prisoner is released for in court proceedings.*"; and

on page 9, line 1 by deleting line 1 in its entirety.

Floor Amendment No. 5 to **HB 310**, by Representative Arnold:

Amend printed copy of Committee Substitute for **HB 310** on page 8, line 21 after "any" by inserting "*political subdivision*";

on page 8, line 21 by placing an opening bracket before the word "county" and by striking through the words "county, city";

on page 8, line 22 by striking through the words "or urban county government" and by placing a closing bracket between the word "government" and the period ".".

Floor Amendment No. 6 to **HB 310**, by Representative T. Jones:

Amend printed copy of Committee Substitute for **HB 310** on page 8, line 24 by deleting "*continuous*";

on page 8, line 24 by inserting a period after "*hours*" and by deleting "*and*";

on page 8, lines 25 and 26 by deleting lines 25 and 26 in their entirety; and

on page 9, line 1 by deleting line 1 in its entirety.

Floor Title Amendment to **HB 367**, by Representative Freibert:

Amend printed copy of **HB 367** by amending the title to read as follows: "AN ACT relating to the funding of education, and declaring an emergency."

Floor Amendment No. 2 to **HB 367**, by Representative Clarke:

Amend printed copy of **HB 367** on page 6, after line 10, by adding the following:

"*(c) Notwithstanding the provisions of paragraph (b) of this subsection, the deduction allowed for fifteen (15) year public utility property shall be the total allowed for such property under Section 168 of the Internal Revenue Code.*"

on page 7, lines 18, 20, and 22, by relettering subsequent paragraphs to conform;

on page 10, after line 8, by adding the following:

"Section 2. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture *of* [~~or~~] electricity;

(3) All energy or energy-producing fuels, *other than coal for the manufacture of electricity,* used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(11) Tombstones and other memorial grave markers; and

(12) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities;

(13) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(14) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(15) Any property which has been certified as an alcohol production facility as defined in KRS 247.910; and

(16) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property for hire. Nominal intrastate use will not subject the property to the taxes imposed by this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

The exemption granted under the provisions of KRS 139.480(2), measured in terms of the amount of tax liability which otherwise would have been incurred, shall be reduced by the amount, if any, by which:

(1) The greater of:

(a) The severance tax imposed by KRS 143.020, or

(b) The severance tax which would have been imposed if such coal had been subject to KRS 143.020,

(2) Exceeds the severance tax actually imposed on any coal exempted by KRS 139.480(2).

Section 4. It is the intent of the General Assembly that if the provisions of Section 3 of this Act are declared unconstitutional, the provisions of KRS 141.010(13)(c) shall be invalid and shall have no effect."

Floor Amendment No. 3 to **HB 367**, by Representative Freibert:

Amend printed copy of **HB 367** on page 10 after line 8, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) On or before July 1, 1984, and on or before July 1 of each successive fiscal year the revenue cabinet shall estimate the difference between the revenue which would be raised from the tax imposed by KRS 141.040 under the provisions of subsection(13), paragraph (b) of Section 1 of this Act and the amount of revenue which otherwise would have been raised by the tax imposed under KRS 141.040 absent the provisions of subsection (13), paragraph (b) of this Act.

(2) The amount of such funds shall be transferred from the general fund to the foundation program fund established under the provisions of KRS 157.33, and expended for the purposes of the provisions of KRS 157.310 to 157.440. Such funds are hereby appropriated.

SECTION3. Whereas the provisions of this Act will affect the budgets of all school districts in the Commonwealth for fiscal year 1984-85, an emergency is declared to exist, and this Act shall become effective upon the passage and approval by the Governor."

Floor Amendment No. 1 to **HB 514**, by Representative Deskins:

Amend printed copy of **HB 514** on page 25, line 18, by inserting the following:

"Section 5. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and regulations adopted by the department, an operator shall prepare and carry out a method of operation, plan of grading and backfilling and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, rolling stones and overburden, water pollution and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the department and, except for applications or renewals submitted in compliance with KRS 350.060(2), the department shall notify the applicant by certified mail, return receipt requested within sixty-five (65) *cumulative* working days after receipt of a complete application if it is or is not acceptable. Provided, however, that in the event that applicable notice, hearing and conference procedures prevent a decision from being issued within the sixty-five (65) *cumulative* working day period, the department shall have additional reasonable time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures. If the plan is not acceptable, the department shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas or reject the entire application.

Should the applicant disagree with the decision of the department, he may, by written notice, request a hearing conducted by the department in the manner provided by KRS 224.083. The department shall notify the applicant by certified mail, return receipt requested within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the department may appeal through the courts as set forth in KRS 224.085.

(2) No operator shall throw, dump, pile or permit the dumping, piling or throwing or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place such materials herein described in such a way that normal erosion or slides brought about by natural physical causes will permit such materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060."

and on page 25, line 18, by renumbering "Section 5" to "Section 6".

Floor Amendment No. 2 to **HB 514**, by Representative Deskins:

Amend printed copy of **HB 514** on page 25, line 18, by inserting the following:

"Section 5. KRS 350.010 is amended to read as follows:
As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the department; or the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months*; or the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds (16 2/3) percent of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration.* Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the department; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the

purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Department" means the department for natural resources and environmental protection;

(11) "Secretary" means the secretary of the department for natural resources and environmental protection;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the department;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the department determines that they are in compliance with KRS 350.455.

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. Such certification shall not be construed to constitute a warranty or guarantee."

and on page 25, line 18, by renumbering "Section 5" to "Section 6".

Floor Amendment No. 1 to **HB 553**, by Representative Barrows:

Amend printed copy of **HB 553** on page 3, line 3, by inserting "*from*" after "*Effective*" and by inserting, after "*1984*" the phrase "*to July 1, 1985*"; and

on page 3, line 9, by inserting the following after "credit,":

"*and effective July 1, 1985, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and seven tenths percent (1.7%) of final compensation multiplied by the number of years of service credit,*".

Floor Amendment No. 1 to **HB 639**, by Representative List:

Amend printed copy of **HB 639** on page 1, line 10, delete the word "*clerk*" and insert in lieu thereof the word "*superintendent*" and on page 1, line 11, delete the phrase: "*tax levying authority*", and insert in lieu thereof the following: "*board of the education*".

Floor Amendment No. 1 to **HB 650**, by Representative Deskins:

Amend printed copy of **HB 650** on page 3, line 4, after "1985" by inserting "and shall not apply to any debts made prior to January 1, 1984".

Adjournment

Representative LeMaster moved that the House adjourn until 4:00 p.m., Monday, March 5, 1984.

On the roll call the vote was yeas 63-Allen, Arnold, Bendl, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Clapp, L. Clark, P. Clark, Cline, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Fryman, Gedling, Harper, Head, Hines, Holbrook, Holloway, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Mann, McBee, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Turner, Van Horn, White, Yates. Nays 3-Handy, Maggard, Perkins.

The motion to adjourn was adopted.

MONDAY, MARCH 5, 1984

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 2, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **HB 67** with Senate Amendment.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 14, HB 17, HB 34, HB 35, HB 229, HB 273, HB 282, HB 316,** and **HB 467** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:15 p.m.)

HB 14, HB 17, HB 34, HB 35, HB 229, HB 273, HB 282, HB 316, and **HB 467** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 918.**

Appropriations and Revenue: **HB 903, HB 905, HB 906, HB 932, HB 933, HB 953, HB 959, HB 962, HB 984, HB 996, HB 957, HB 899, HB 912, HB 913, HB 915, HCR 97, HB 1005, HB 1006, HB 1020.**

Banking and Insurance: **HB 897, HB 898, HB 901, HB 907, HB 914, HB 916, HB 934, HB 937, HB 985, HB 1007, HB 1010, HB 1011, SB 255, SB 275.**

Business Organizations and Professions: **HB 894, HB 924.**

Cities: **HB 896, HCR 94, SB 277, SB 87.**

Counties and Special Districts: **HB 927, HB 982, HB 900, HCR 96, SB 276, SB 273, SB 243.**

Education: **HB 908, HB 909, HB 910, HB 911, HB 921, HB 923, HB 944, HB 946, HB 961, HB 969, HB 972, HB 980, HB 981, HB 986, HB 967, HB 1004, HB 1009.**

Energy: **HB 938, HB 1008, HB 1014, HJR 109.**

Health and Welfare: **HB 947, HB 949, HB 952, HB 955, HB 956, HB 958, HB 995, HB 997, HB 998, HB 999, HB 964, HB 1002, HB 1016, SB 199.**

Judiciary-Civil: **HB 904, HB 926, HB 930, HB 935, HB 951, HB 954, HB 989, HB 994, HB 1021.**

Judiciary-Criminal: **HB 917.**

Labor and Industry: **HB 950, HB 992, HB 993, HB 1000, HB 973, HB 1012, HB 1013.**

Natural Resources and Environmenta: **HB 895, HB 931, HB 960, HB 971, HB 983, HB 987, HB 991, HJR 101, HR 99, HB 1001, HB 1015, SB 280.**

State Government: **HB 902, HB 919, HB 920, HB 922, HB 925, HB 928, HB 929, HB 936, HB 940, HB 941, HB 942, HB 943, HB 945, HB 948, HB 963, HB 965, HB 966, HB 970, HB 974, HB 975, HB 976, HB 977, HB 978, HB 979, HB 988, HB 990, HJR 92, HJR 95, HJR 98, HJR 106, HCR 105, HB 1003, HB 1017, HB 1018, HB 1019, HCR 110, HCR 111, HCR 108, SB 267.**

Transportation: **HB 939, HB 968, HJR 93.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 761, HB 809, HB 838, HB 860, HB 885, SB 148, HB 937.**

Appropriations and Revenue: **HB 165.**

Report of Committees

The Committee on Rules reported **HB 574, HB 700, HB 72, HB 495, HB 542, HB 543, HB 662, HB 664, SB 24, HB 605, SB 11, SB 81, SB 183, HB 425, HB 595,** and **HCR 18** have been posted for passage in Orders of the Day, March 6, 1984.

The Committee on Rules reported the following Bills and Resolutions have been recommitted:

State Government: **HB 497, HJR 58.**

Judiciary-Civil: **HB 501.**

Appropriations and Revenue: **HB 439, SB 118.**

Calendar

HB 507, HB 546, HB 552, HB 616, and **HB 620** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative LeMaster moved that the rules be suspended for Introduction of a Resolution. Agreed.

Introduction of Resolution

HR 113, by Representative Kidd: A RESOLUTION honoring the Reverend Jesse Jackson.

Orders of the Day

HB 650, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved the adoption of the Committee Amendment No. 1 to **HB 650**. Agreed.

Representative Dunn moved the adoption of the Floor Amendment No. 1 to **HB 650**. Agreed.

Representative Dunn moved that **HB 650**, as amended, be passed.

Representative Lundergan moved that **HB 650**, as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 41-Allen, Arnold, Barrows, Blevins, Burnette, Caldwell, L. Clark, Clarke, Cline, Curd, Cyrus, Dawahare, Endicott, Farrow, Freibert, Gedling, Holbrook, Holloway, T. Jones, Kenton, Lefevers, Lile, Long, Lundergan, Maggard, Mann, McElroy, McNutt, Morris, Noe, Patrick, Pearman, Perkins, Rattliff, Robinson, Stumbo, Thomas, Thomason, Turner, White, Worthington. Nays 25-Bendl, Bennett, Bronger, Burch, P. Clark, Deskins, Donnermeyer, Dunn, Guenthner, Hancock, Hines, LeMaster, Little, Nett, O'Brien, Petty, Priddy, Rapier, B. Richardson, F. Smith, Stone, Todd, Van Horn, Williams, Yates.

The motion that **HB 650**, as amended, be laid on the Clerk's desk was adopted.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 121** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:37 p.m.)

Orders of the Day (continued)

HB 310, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Substitute to **HB 310**. Agreed.

Representative Arnold moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 310**. Agreed.

Representative Arnold moved the adoption of the Floor Amendment No. 5 to the Committee Substitute to **HB 310**. Agreed.

Representative T. Jones moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 310**. Agreed.

Representative Arnold moved that **HB 310**, by way of Committee Substitute as amended, be passed.

Representative Overstreet moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 310**.

On the roll call the vote was yeas 42-Allen, Bennett, Brinkley, Bronger, Caldwell, Craddock, Crupper, Curd, Cyrus, Dawahare, Endicott, Ford, Foster, Freibert, Fryman, Gray, Harper, Holbrook, Holloway, Johnson, Kidd, Layman, Lefevers, Lile, Little, Maggard, Meyer, Moore, Noland, O'Brien, Overstreet, Patrick, Perkins, Rattliff, Reinhardt, Robinson, Stone, Stumbo, Thomason, Todd, Turner, Van Horn. Nays 45-Arnold, Barrows, Bendl, Blandford, Blevins, Burch, Burnette, L. Clark, P. Clark, Clarke, Cowan, Deskins, Donnermeyer, Dunn, Farrow, Gedling, Hancock, Head, Hines, R. Jones, T. Jones, Kenton, LeMaster, List, Long, Lundergan, Mann, McBee, McElroy, McNutt, Moberly, Nett, Noe, Petty, Rapier, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Thomas, White, Williams, Yates.

Floor Amendment No. 1 to the Committee Substitute to **HB 310** was rejected.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Allen, Patrick, Pearman.

HB 310, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 310**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 263, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Committee Substitute to **HB 263**. Agreed.

Representative Endicott moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 263**. Agreed.

Representative Stone moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 263**. Agreed.

Representative List moved that **HB 263**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 64-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cowan, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Johnson, T. Jones, Kenton, Kidd, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Moore, Morris, Noe, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, Riner, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Van Horn, White, Williams. Nays 29-Allen, Brown, Burnette, Cline, Craddock, Crupper, Curd, Ellington, Endicott, Ford, Foster, Fryman, Guenthner, Heleringer, R. Jones, Layman, Lefevers, McElroy, McNutt, Noland, Patrick, Pearman, B. Richardson, P. Richardson, Robinson, Stone, Todd, Turner, Yates.

HB 263, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 263**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 553, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 553** be passed.

Representative Gray moved that **HB 553** be laid on the Clerk's desk. Agreed.

HB 571, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 571**.

On the roll call the vote was yeas 63-Arnold, Bendl, Bennett, Blevins, Brinkley, Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Foster, Freibert, Gedling, Hancock, Handy, Harper, Hines, Johnson, T. Jones, Kenton, Kidd, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Seum, B. Smith, Stone, Thomason, Van Horn, Williams, Worthington, Yates. Nays 11-Allen, Bronger, Endicott, Fryman, Heleringer, Lefevers, Holand, Patrick, Pearman, Robinson, Turner.

The Committee Amendment No. 1 to **HB 571** was adopted.

Representative Long moved that **HB 571**, as amended, be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-F. Smith.

HB 571, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 571**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 639, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Floor Amendment No. 1 to **HB 639**. Agreed.

Representative List moved that **HB 639**, as amended, be passed.

On the roll call the vote was yeas 46-Bendl, Bennett, Blandford, Burch, Caldwell, Clapp, Clarke, Craddock, Curd, Donnermeyer, Dunn, Gedling, Handy, Harper, Hines, Holloway, Johnson, Kenton, Kidd, LeMaster, Lile, List, Long, Lundergan, Mann, McBee, McNutt, Meyer, Moberly, Nett, Noe, O'Brien, Pearman, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Robinson, Seum, Thomas, Thomason, White, Williams, Worthington. Nays 46-Allen, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, L. Clark, P. Clark, Cline, Cowan, Crupper, Cyrus, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gray, Guenthner, Head, Heleringer, Holbrook, R. Jones, Layman, Lefevers, Little, Maggard, McElroy, Moore, Morris, Noland, Overstreet, Perkins, Priddy, P. Richardson, Riner, F. Smith, Stone, Todd, Turner, Van Horn, Yates.

HB 639 was defeated.

HB 640 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 640** be passed.

On the roll call the vote was yeas 92-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 640 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 640** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 61 taken from Orders of the Day and ordered read at length for the third time. Representative

LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved the adoption of **HR 61.**

HR 61 was adopted by voice vote.

HB 297, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Substitute to **HB 297.** Agreed.

Representative Heleringer moved that **HB 297,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 48-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Crupper, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Gedling, Guenthner, Handy, Harper, Heleringer, Hines, T. Jones, Lile, Little, Meyer, Moore, Morris, Noe, Noland, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Seum, F. Smith, Todd, Van Horn, Williams, Worthington, Yates. Nays 45-Arnold, Burnette, Clarke, Cline, Cowan, Craddock, Curd, Deskins, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gray, Hancock, Head, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, LeMaster, List, Long, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Nett, O'Brien, Overstreet, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, Stone, Thomason, Turner, White.

HB 297, by way of Committee Substitute, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 297,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 404, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Floor Amendment No. 1 to **HB 404.** Agreed.

Representative Long moved the adoption of the Floor Amendment No. 2 to **HB 404.** Agreed.

Representative Long moved that **HB 404,** as amended, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Harper, List.

HB 404, as amended, was passed.

Representative Long moved the adoption of the Floor Title Amendment to **HB 404.** Agreed.

Representative LeMaster moved that the vote by which **HB 404,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 249, SB 279, SB 284, SB 314, HB 10, HB 47, HB 128, HB 154, HB 286, HB 450, HB 505, HB 561,** and **HCR 30.**

Orders of the Day (continued)

HB 415, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 415**. Agreed.

Representative Donnermeyer moved that **HB 415**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 37-Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Bruce, Caldwell, Clarke, Crupper, Cyrus, Donnermeyer, Dunn, Hancock, Handy, Heleringer, Hines, Johnson, T. Jones, Kenton, List, Long, Maggard, Mann, McBee, Meyer, Moberly, Noe, Perkins, Petty, Rapier, P. Richardson, F. Smith, Stone, Thomas, Van Horn, Williams. Nays 50-Allen, Brown, Burch, Burnette, Clapp, L. Clark, Cline, Cowan, Curd, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Harper, Head, Holbrook, Holloway, R. Jones, Layman, Lefevers, Lile, Little, Lundergan, McElroy, McNutt, Moore, Morris, Nett, Noland, O'Brien, Overstreet, Pearman, Priddy, Rattliff, Reinhardt, Riner, Robinson, B. Smith, Thomason, Todd, Turner, White, Worthington, Yates.

HB 415, by way of Committee Substitute, was defeated.

HB 536 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 536** be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington. Nays 6-Burnette, Ellington, Foster, LeMaster, Moore, Pearman.

HB 536 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 536** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 548, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Floor Amendment No. 1 to **HB 548**. Agreed.

Representative Mann moved that **HB 548**, as amended, be passed.

On the roll call the vote was yeas 68-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Ford, Foster, Fryman, Gray, Hancock, Handy, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Little, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Perkins, Priddy, Rattliff, Reinhardt, Riner, Robinson, Seum, F. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 17-Allen, Crupper, Curd, Ellington, Farrow, Freibert, Harper, Head, R. Jones, Layman, Long, McNutt, Noland, Pearman, Rapier, B. Smith, Turner.

HB 548 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 548** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that **HB 553** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of Resolutions, Report of Committees, and Reference of Bills and Resolutions. Agreed.

Introduction of Resolution

HR 114, by Representatives Moberly, Kenton, P. Richardson, Farrow, Noe, T. Jones, Thomas, Barrows, and Mann: A RESOLUTION expressing the sentiment of the Kentucky House of Representatives opposing the U.S. Army's proposed ammunition disposal at the Lexington-Blue Grass Army Depot.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Stat[illegible] **HB 848.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 926.**

Natural Resources and Environment: **HB 877.**

Labor and Industry: **HB 854, HB 950.**

Judiciary-Criminal: **HB 736, HB 917, HB 837, HB 636.**

Education: **HB 833, HB 908, HB 909, HB 866, HB 911, HB 769.**

Business Organizations and Professions: **HB 738, HB 844, HB 808, HB 818, HB 828, HB 807, SB 215.**

Banking and Insurance: **HB 862.**

Motions, Petitions, and Communications

The following meetings were announced.

Counties and Special Districts: Tuesday, 8 a.m.

Labor and Industry: Tuesday, 8 a.m.

Representative Van Horn moved that **HB 802** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Reinhardt moved the adoption of the following Legislative Citation No. 85. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends our sincere thanks and ardent appreciation to the Falmouth Outlook, for your significant contributions to your community's need for immediate information. This auspicious body salutes you, Warren J. Shonert, Editor, and your 10 member staff as you most admirably lead and manage your family owned and operated business founded and organized by your father, Warren J. Shonert, on June 21, 1921. Your responsibility is awesome because we depend upon you to keep us--the public--informed. Your willingness to respond at any hour, to toil (while others sleep) to produce the only local newspaper is so vital to your readers and the public at large. Your profession provides a vehicle and an influential force that can shape a network of understanding among us, and we are grateful beneficiaries of your excellent services that will be enshrined in the pages of history.

This prestigious body commends you on your hard work, long hours and dedication in providing an indispensable service to Southern Campbell and Pendleton Counties. (Sponsored by Representative Reinhardt)

Representative Mann moved that **HB 600** be reassigned to the Committee on State Government. Agreed.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members have filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative P. Clark, **HB 311**; Representative Gray, **HB 750**; Representative Head, **HB 800**; Representative Moberly, **HR 61**; Representative Priddy, **HB 781**; Representative Reinhardt, **HB 210**, **HB 426**, **HB 479**, **HB 490**; Representative Yates, **HB 491**.

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions: Representative P. Clark, **HB 810**; Representative Cowan, **HB 894**; Representative Reinhardt, **HJR 75**, **HJR 77**.

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **SB 183**, by Representative Gray:

Amend printed copy of **SB 183**, page 2, lines 22 and 23, by deleting the words "*Northpoint Training Center shall be a temporary penitentiary*"

Floor Amendment No. 1 to **HB 86**, by Representative Hancock:

Amend printed copy of **HB 86**, page 4, line 10, after "*sonnel*" by inserting the following language:

"*. Exceptions shall be approved by the commissioner of the department of personnel*"

Floor Title Amendment to **HB 391**, by Representative Blevins:

Amend printed copy of **HB 391**, by deleting the title and adding AN ACT relating to motorcycles in lieu thereof

Floor Amendment No. 2 to **HB 391**, by Representative Blevins:

Amend printed copy of **HB 391**, page 4, line 6, after the word "hour." by inserting the following:

Section 2. KRS 186.531 is amended to read as follows:

(1) The cost of operator's licenses, motorcycle operator's licenses and permits shall be as follows:

(a) The fee for any two (2) year original or renewal license[~~, including motorcycle operator's license,~~] shall be four dollars ($4.00), except that the fee for a combination motor vehicle-motorcycle operator's license shall be *nine dollars ($9.00)* [~~seven dollars ($7.00)~~]. *The fee for any two (2) original or renewal motorcycle operator's license shall be six dollars ($6).* The fee for any four (4) year original or renewal license[~~, including motorcycle operator's license,~~] shall be eight dollars ($8.00), except that the fee for a four (4) year combination motor vehicle-motorcycle operator's license shall be *sixteen dollars ($16). The fee for any four (4) year original or renewal motorcycle operator's license shall be ten dollars ($10)* [~~fourteen dollars ($14.00)~~];

(b) The fee for any instruction permit shall be fifty (50) cents plus fifty (50) cents for preparing and acknowledging such application;

(c) The fee for a duplicate license shall be two dollars ($2.00); and

(d) The fee for a non-driver's identification card shall be four dollars ($4.00). The fee for a duplicate non-driver identification card shall be two dollars ($2.00).

(2) The circuit clerk shall deposit in the state treasury to the credit of the general fund except as provided in *paragraph* [~~subsection~~] (f) *of this subsection and KRS 186.535* fees pertaining to applications and license fees in the following manner:

(a) One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee for a combination motor vehicle-motorcycle operator's license shall be three dollars ($3.00);

(b) Fifty (50) cents for issuance of any instruction permit;

(c) Fifty (50) cents for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each non-driver's identification card; and

(f) For each two (2) year original or renewal license fifty (50) cents or for each four (4) year original or renewal license one dollar ($1.00) shall be credited to a special account within the state road fund and shall be used by the transportation cabinet exclusively for the purpose of issuing a photo license.

(3) The remainder of all fees, and other moneys collected by the circuit court clerk shall be forwarded to the state.

(4) The photo licenses shall be in use and the procedures prescribed by KRS 186.412 and 186.413 shall be fully implemented by January 1, 1975.

Section 3. KRS 186.535 is amended to read as follows:

(1) From the fee for each two (2) year original or renewal operator's license, twenty-five (25) cents shall be credited to a special account within the road fund, and shall be used exclusively by the transportation cabinet for the purpose of expanding the state driver education program, and twenty-five (25) cents shall be paid to the fiscal court of the county where the driver's license is issued to be used by the fiscal court for county road purposes.

(2) From the fee for each four (4) year original or renewal operator's license, fifty (50) cents shall be credited to a special account within the road fund, and shall be used exclusively by the transportation cabinet for the purpose of expanding the state driver education program, and fifty (50) cents shall be paid to the fiscal court of the county where the driver's license is issued to be used by the fiscal court for county road purposes.

(3) From the fees for each two (2) or four (4) year original or renewal motorcycle operator's license and from each two (2) or four (4) year combination motor vehicle-motorcycle operator's license, two dollars ($2) shall be credited to a special account within the road fund and shall be used exclusively by the transportation cabinet for the purpose of motorcycle safety education program.

Floor Amendment No. 1 to **HB 439,** by Representative Endicott:

Amend printed copy of Committee Substitute to **HB 439,** page 3, line 10, after the "." by inserting the following:

If the owner places a previously issued license plate on an additional vehicle, he shall within fifteen (15) days return the registration receipt to the county clerk so that the proper information can be recorded. If the owner fails to assign the previously issued license plate, the plate and registration receipt shall be delivered to the county clerk who shall immediately return the plate and the receipt to the department of vehicle regulation.

Floor Amendment No. 3 to **HB 514,** by Representative Deskins:

Amend printed copy of **HB 514,** page 25, line 18, by inserting the following:

Section 5. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the department; [~~or~~] the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any

person by surface coal mining operations within twelve (12) successive calendar months; *the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds (16 2/3) percent of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057.* Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the department; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; *the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds (16 2/3) percent of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057;* nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Department" means the department for natural resources and environmental protection;

(11) "Secretary" means the secretary of the department for natural resources and environmental protection;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the department;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the department determines that they are in compliance with KRS 350.455.

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated

hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.

And on page 25, line 18, by renumbering "Section 5" to "Section 6"

Floor Amendment No. 2 to **HB 553**, by Representative Gray:

Amend printed copy of **HB 553**, page 6, after line 4, by adding the following:

Section 3. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the department of transportation, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. *Hazardous positions shall include positions in state correctional institutions with duties that require daily face-to-face contact with inmates, including but not limited to uniformed correctional officers, case managers, food service, medical, maintenance and recreational personnel and teachers.*

(2) Each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705 or 78.510 to 78.852 or 16.510 to 16.652.

Section 4. KRS 196.160 is amended to read as follows:

(1) The secretary shall appoint a superintendent, a receiver and other necessary employes for each of the state penal and correctional institutions. The compensation of these officers and employes may include maintenance.

(2) The cabinet shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by employes in those positions in state correctional institutions with duties that require daily face-to-face contact with inmates.

Floor Amendment No. 3 to **HB 553**, by Representative Morris:

Amend printed copy of **HB 553**, page 1, line 3, by inserting before the word "shall" the following: "*may*";

And on page 1, line 3, by enclosing the word "shall" in brackets and by striking through the word "shall".

Floor Amendment No. 4 to **HB 553**, by Representative Hancock:

Amend printed copy of **HB 553**, page 6, line 4, by adding after line 4 the following:

"Section 3. KRS 61.595 is amended to read as follows:

(1) Upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and six-tenths per cent (1.6%) of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than $240 multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the [~~executive department for~~] finance and administration *cabinet*. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph (c), and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than $512.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has *twenty-five (25)* [~~thirty (30)~~] or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five cents (25) greater or less than the amount of the initial retirement payment.

Section 4. KRS 61.560 is amended to read as follows:

(1) Each employe shall, commencing on July 1, 1966, contribute for each pay period for which he receives compensation four *and one-half percent (4.5%)* [~~percent (4%)~~] of his creditable compensation, except that members of the general assembly, who elect the survivorship option provided in subsections (10) and (11) of KRS 61.635, shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.510 through 61.702 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute four *and one-half percent (4.5%)* [~~percent (4%)~~] of his creditable compensation, or the amount

required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the federal social security act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employe for each and every payroll period the contribution payable by each such employe as provided in KRS 61.510 to 61.705.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employe shall be reduced thereby. Every employe shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.510 to 61.705.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each employer shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 61.510 to 61.705 in the same manner and to the same extent as employe contributions made prior to August 1, 1982."

Floor Amendment No. 5 to **HB 553**, by Representative Hancock:

Amend printed copy of **HB 553**, page 6, line 4, by inserting after line 4 the following:

"Section 3. KRS 61.691 is amended to read as follows:

(1) Effective *January 1, 1985* [~~July 1, 1982~~], a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.510 to 61.705 and 78.510 to 78.852 shall have his retirement allowance increased *by one dollar ($1) per month for each year of service accumulated prior to retirement, or by six and one-half percent (6.5%), whichever is greater.* [~~based upon the number of months elapsed since the effective retirement date as follows:~~

~~Months Retired~~	~~Percent Increase~~
~~1-12~~	~~1%~~
~~13-24~~	~~2%~~
~~25-36~~	~~3%~~
~~37-48~~	~~4%~~
~~49-60~~	~~5%~~
~~61-72~~	~~6 1/4%~~
~~73-84~~	~~7 1/2%~~
~~85-96~~	~~8 3/4%~~
~~97-108~~	~~10%~~
~~109-120~~	~~11 1/2%~~
~~121-132~~	~~13%~~
~~133-144~~	~~14 1/2%~~
~~145 or more~~	~~15%~~

~~(2) Effective July 1, 1983, a recipient of a retirement allowance under KRS 16.510 to 16.652 or 61.510 to 61.705 or 78.510 to 78.852 shall have his retirement allowance increased based upon the number of months elapsed since the effective retirement date as follows:~~

~~Months Retired~~	~~Percent Increase~~
~~1-12~~	~~1/2%~~
~~13-24~~	~~1%~~
~~25-36~~	~~1 1/2%~~
~~37-48~~	~~2%~~
~~49-60~~	~~2 1/2%~~
~~61-72~~	~~3 1/4%~~

~~73-84~~	~~4%~~
~~85-96~~	~~4 3/4%~~
~~97-108~~	~~5 1/2%~~
~~109-120~~	~~6 1/2%~~
~~121-132~~	~~7 1/2%~~
~~133-144~~	~~8 1/2%~~
~~145 or more~~	~~9 1/2%~~]

(2)[~~(3)~~] A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.''

Floor Amendment No. 1 to **HB 619**, by Representative Harper:

Amend printed copy of **HB 619**, page 2, line 14, after ''*utility or*'' by adding ''*sewer utility, as defined in KRS 278.010(3)(d) or KRS 278.101(3)(f)*'' and by striking ''*combined water, gas or sewer utility organized*''

And on line 15 by striking ''*under KRS Chapter 74 or 273*''

And on page 2, line 19, after ''*tions.*'' by adding the following: ''*Any depreciation granted on contributed property under this subsection shall be deposited by the utility into an account expressly for that purpose. The funds deposited in this account shall be used exclusively for the replacement and upgrading of the utility's equipment and system.*''

Adjournment

Representative LeMaster moved that the House adjourn until 2 p.m., Tuesday, March 6, 1984.

On the roll call the vote was yeas 66-Barrows, Bendl, Bennett, Blevins, Brinkley, Brown, Bruce, Burch, Caldwell, L. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Head, Hines, Holbrook, Johnson, T. Jones, Kenton, Layman, Lefevers, Lile, List, Little, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Noland, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Williams, Yates. Nays 4-Handy, LeMaster, Maggard, Perkins.

The motion to adjourn was adopted.

TUESDAY, MARCH 6, 1984

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend E. W. Damron, Cold Run Church of Christ, Pikeville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Blevins.

Representative Brinkley moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 5, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 74**, **SB 84**, **SB 93**, **SB 206**, **SB 223**, **SB 233**, **SB 236**, **SB 237**, **SB 238**, **SB 244**, **SB 292**, **SB 293**, **SB 327**, **SCR 42**, and **HB 421** with Senate Amendments.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 10**, **HB 47**, **HB 128**, **HB 154**, **HB 286**, **HB 450**, **HB 505**, **HB 561**, and **HCR 30** had been examined and found correctly enrolled. Said Bills and Resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-2:13 p.m.)

HB 10, **HB 47**, **HB 128**, **HB 154**, **HB 286**, **HB 450**, **HB 505**, **HB 561**, and **HCR 30** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 314**.

Cities: **SB 249**.

Health and Welfare: **SB 279**.

State Government: **SB 284**, **HR 100**, **HR 102**, **HR 103**, **HR 104**, **HR 107**, **HR 114**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 600**.

Cities: **HB 883**, **HB 874**, **HB 865**, **HCR 94**, **SB 277**, **SB 87**.

Labor and Industry: **HB 992**.

Report of Committees

The Committee on Rules reported **HB 552, HB 616, HB 565, HB 573, HB 721, HB 562, SB 108, HB 46, HB 346,** and **HB 372** have been posted for passage in Orders of the Day, March 7, 1984.

The Committee on Appropriations and Revenue reported **HB 38** and **SCR 6** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 671** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 671, AN ACT relating to the department of revenue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 12.210 and 134.380, the commissioner shall not employ field agents, accountants, and attorneys for the purposes of collecting delinquent taxes, when the terms of employment of such persons provide that their compensation shall be on a contingency basis.

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) The department of revenue may be attached to another administrative body for administrative convenience, but in all cases the department shall report directly to the governor.

(2) The provisions of KRS 12.028, relating to the governor's reorganization powers, shall not apply to the department of revenue.

The Committee on Counties and Special Districts reported **HB 16** with Committee Substitute and Committee Amendment attached thereto, **HB 612, HB 717, HB 781** with Committee Amendment attached thereto, **HB 800, HB 812,** and **SB 209** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to property valuation administrators and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on (1) the area, (2) the population, and (3) the assessed value of property in the county in accordance with the provisions of the following scale, with one (1) point per each ten (10) square miles or fraction thereof of the area of the county; one (1) point per one thousand (1,000) population of the county; one (1) point per million dollars of assessment on the first one hundred (100) million and one-half (1/2) point per million dollars of assessment over one hundred (100) million:

Number of Points		Grade
At Least	But Less Than	Classification
5,000	*---*	*17*
1,500	*5,000*	*16*
500	*1,500*	*15*
300	*500*	*14*
175	*300*	*13*
125	*175*	*12*
---	*125*	*11*
[~~5,000~~	~~—~~	~~22~~
~~1,000~~	~~5,000~~	~~21~~
~~350~~	~~1,000~~	~~20~~
~~300~~	~~350~~	~~19~~
~~225~~	~~300~~	~~18~~
~~150~~	~~225~~	~~17~~

~~125~~	~~150~~	~~16~~
~~100~~	~~125~~	~~15~~
—	~~100~~	~~14~~]

Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The grade classification system provided in subsection (1) of this section shall in all respects, be equivalent to the grade classification for state employes as established by the department of personnel and subject to the provisions of subsection (4) of this section and be determined on the basis of the total area of the county as determined from information provided by the Kentucky agricultural statistics or other reliable data, the United States Bureau of the Census and the assessment of property subject to state tax as certified by the department of revenue, including the amount of assessment on which taxes are deferred under the provisions of the Agricultural and Horticultural Land Act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(3) The provisions of this section shall be computed on the 1978 assessment and on each annual assessment thereafter.

(4) Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and shall annually, effective January 1 after serving no less than twelve months, be advanced one step in grade; except, that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one step in grade effective January 1 following completion of at least six months service. The department of revenue is authorized to make grade classification changes corresponding to any approved for department employes in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to availability of funds, that the department may extend cost-of-living increases approved for department employes to the property valuation administrators by advancement in grade.

(5) Deputy property valuation administrators and other authorized personnel likewise may be advanced one step in grade upon completion of twelve (12) months continuous service and given such other benefits relating to reclassification of position or cost-of-living adjustments as are provided in subsection (4) of this section for property valuation administrators.

(6) The property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents on each one hundred dollars ($100) of the property assessed, including motor vehicles and the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but exclusive of livestock and farm machinery, on the first two hundred fifty million dollars ($250,000,000) and one cent (1) on each one hundred dollars ($100) of the property assessed over two hundred fifty million dollars ($250,000,000); but the total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the department of revenue.

However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for one full time deputy. Each property valuation administrator shall submit each fiscal year to the department of revenue a budget for his office which shall be based upon the state, county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. Each property valuation administrator may appoint any persons approved by the department of revenue to assist him in the discharge of his duties. Each deputy must be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the department of revenue and shall be subject to the approval of the department of revenue. Any deputy property valuation administrator employed, or promoted to a higher position may be examined by the department of revenue in accordance with standards of the department of personnel, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the department of revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(7) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280 an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
-	$100,000,000	$.005 for each $100 of the first $50,000,000

		and $.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$.004 for each $100 of the first $100,000,000 and $.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$.004 for each $100 of the first $150,000,000 and $.003 for each $100 over $150,000,000.
300,000,000	--	$.004 for each $100.

(8) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (7) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
-	$ 700,000,000	$ 25,000
$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	--	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(9) Annually, after appropriation by the county of funds required of it by KRS 132.590(7), the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the state treasury and shall be expended by the department of revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the state treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated, shall be returned to the county from which they were received and shall be subject to the provision of subsection (10) of this section. Each property valuation administrator shall at the end of each month file a claim with the fiscal court for expenses of his office other than personnel incurred during the month which are payable from county funds. The court shall order payment made provided the total of all claims filed with the court does not exceed the total sum available under this section. During county election years the property valuation administrator shall not be allowed to expend in excess of forty percent of the allowances available to his office from county funds during the first five months of the fiscal year in which the general election is held.

(10) Any county funds appropriated under the provisions of this section but unexpended by the close of each fiscal year for which such funds are appropriated shall carry over and be added to the amount required to be appropriated for the next fiscal year except that the department of revenue may release such funds or any part thereof that the department deems not necessary for operations of the property valuation administrator's office.

(11) The provisions of this section shall apply to urban-county governments. In an urban-county government, all the rights and obligations conferred on fiscal courts by the provisions of this section, shall be exercised by the urban-county government.

(12) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government with an assessment subject to county wide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government with an assessment subject to county-wide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000) and two hundred thousand dollars ($200,000) for an urban-county government with an assessment subject to county-wide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(13) Notwithstanding the provisions of subsection (1) of this section, any property valuation

administrator whose county classification would be reduced from that existing as of June 17, 1978 shall not have his compensation reduced but shall continue to be compensated at his then current salary until such time as an increase in points earned by his county or a departmental adjustment, under subsection (4) of this section, qualify him for an increase in compensation.

(14) The county classification system provided in subsections (1) and (2) of this section shall in no way affect reclassification approved prior to this enactment nor shall they be construed to affect any future reclassifications provided under subsection (4) of this section.

Section 2. Each property valuation administrator who receives an increment in grade as a result of this Act shall, effective July 15, 1984, receive two (2) five percent (5%) increments in salary for each increment in grade. Salary increments shall be compounded to arrive at the proper compensation level of each property valuation administrator, but no property valuation administrator shall, as a result of this Act, receive a salary which exceeds the mid-point of the salary range for his grade classification. No property valuation administrator's salary shall be reduced as a result of this Act.

Section 3. There is appropriated to fund the salary increases required by this Act four hundred and ninety-five thousand dollars ($495,000) for fiscal year 1984-1985, and four hundred and ninety-five thousand dollars ($495,000) for fiscal year 1985-1986.

The Committee Substitute to **HB 16** is as follows:

HB 16, AN ACT relating to property valuation administrators and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on (1) the area, (2) the population, and (3) the assessed value of property in the county in accordance with the provisions of the following scale, with one (1) point per each ten (10) square miles or fraction thereof of the area of the county; one (1) point per one thousand (1,000) population of the county; one (1) point per million dollars of assessment on the first one hundred (100) million and one-half (1/2) point per million dollars of assessment over one hundred (100) million:

Number of Points		Grade
At Least	But Less Than	Classification
5,000	---	*15*[~~22~~]
1,000	5,000	*14*[~~21~~]
350	1,000	*13*[~~20~~]
300	350	*12*[~~19~~]
225	300	*11*[~~18~~]
150	225	*10*[~~17~~]
125	150	*9*[~~16~~]
100	125	*8*[~~15~~]
---	100	*7*[~~14~~]

Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The grade classification system provided in subsection (1) of this section shall in all respects, be equivalent to the grade classification for state employes as established by the department of personnel and subject to the provisions of subsection (4) of this section and be determined on the basis of the total area of the county as determined from information provided by the Kentucky agricultural statistics or other reliable data, the United States Bureau of the Census and the assessment of property subject to state tax as certified by the department of revenue, including the amount of assessment on which taxes are deferred under the provisions of the Agricultural and Horticultural Land Act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(3) The provisions of this section shall be computed on the 1978 assessment and on each annual assessment thereafter.

(4) Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and shall annually, effective January 1 after serving no less than twelve months, be advanced one step in grade; except, that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one step in grade effective January 1 following completion of at least six months service. The department of revenue is authorized to make grade classification changes corresponding to any approved for department employes in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to

availability of funds, that the department may extend cost-of-living increases approved for department employes to the property valuation administrators by advancement in grade.

(5) Deputy property valuation administrators and other authorized personnel likewise may be advanced one step in grade upon completion of twelve (12) months continuous service and given such other benefits relating to reclassification of position or cost-of-living adjustments as are provided in subsection (4) of this section for property valuation administrators.

(6) The property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents on each one hundred dollars ($100) of the property assessed, including motor vehicles and the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but exclusive of livestock and farm machinery, on the first two hundred fifty million dollars ($250,000,000) and one cent (1) on each one hundred dollars ($100) of the property assessed over two hundred fifty million dollars ($250,000,000); but the total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the department of revenue.

However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for one full time deputy. Each property valuation administrator shall submit each fiscal year to the department of revenue a budget for his office which shall be based upon the state, county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. Each property valuation administrator may appoint any persons approved by the department of revenue to assist him in the discharge of his duties. Each deputy must be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the department of revenue and shall be subject to the approval of the department of revenue. Any deputy property valuation administrator employed, or promoted to a higher position may be examined by the department of revenue in accordance with standards of the department of personnel, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the department of revenue prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(7) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280 an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
-	$100,000,000	$.005 for each $100 of the first $50,000,000 and $.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$.004 for each $100 of the first $100,000,000 and $.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$.004 for each $100 of the first $150,000,000 and $.003 for each $100 over $150,000,000.
300,000,000	--	$.004 for each $100.

(8) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (7) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
-	$ 700,000,000	$ 25,000
$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	--	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(9) Annually, after appropriation by the county of funds required of it by KRS 132.590(7), the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the state treasury and shall be expended by the department of revenue only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the state treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated, shall be returned to the county from which they were received and shall be subject to the provision of subsection (10) of this section. Each property valuation administrator shall at the end of each month file a claim with the fiscal court for expenses of his office other than personnel incurred during the month which are payable from county funds. The court shall order payment made provided the total of all claims filed with the court does not exceed the total sum available under this section. During county election years the property valuation administrator shall not be allowed to expend in excess of forty percent of the allowances available to his office from county funds during the first five months of the fiscal year in which the general election is held.

(10) Any county funds appropriated under the provisions of this section but unexpended by the close of each fiscal year for which such funds are appropriated shall carry over and be added to the amount required to be appropriated for the next fiscal year except that the department of revenue may release such funds or any part thereof that the department deems not necessary for operations of the property valuation administrator's office.

(11) The provisions of this section shall apply to urban-county governments. In an urban-county government, all the rights and obligations conferred on fiscal courts by the provisions of this section, shall be exercised by the urban-county government.

(12) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government with an assessment subject to county wide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government with an assessment subject to county-wide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000) and two hundred thousand dollars ($200,000) for an urban-county government with an assessment subject to county-wide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(13) Notwithstanding the provisions of subsection (1) of this section, any property valuation administrator whose county classification would be reduced from that existing as of June 17, 1978 shall not have his compensation reduced but shall continue to be compensated at his then current salary until such time as an increase in points earned by his county or a departmental adjustment, under subsection (4) of this section, qualify him for an increase in compensation.

(14) The county classification system provided in subsections (1) and (2) of this section shall in no way affect reclassification approved prior to this enactment nor shall they be construed to affect any future reclassifications provided under subsection (4) of this section.

The Committee Title Amendment to **HB 16** is as follows:

Amend printed copy of Committee Substitute to **HB 16**, on page 1, by amending the title thereof to read: "AN ACT relating to property valuation administrators.".

HB 612, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.020 is amended to read as follows:

(1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this

section:

(a) If a district lies wholly within a single county[~~, or operates as a single-county district as provided in paragraph (c) of this subsection~~], the board of commissioners shall consist of three (3) *commissioners. The board of commissioners of a district with boundaries that are coterminous with those of a single county shall be composed of either three (3) or five (5) members as the county judge/executive shall determine. Members of the board shall be* residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court. In the event of a merger of water districts as described in KRS 74.361, the county judge/executive may appoint up to five (5) commissioners with the approval of the fiscal court. Initial appointments shall be for terms of two (2), three (3) and four (4) years, as designated by the court. [~~Commissioners serving under appointments June 16, 1966 shall continue to serve until the end of their respective terms.~~]

(b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, the board of commissioners shall be appointed by the county judges/executive with the approval of the fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.

(c) If a single-county district administered as provided in paragraph (a) hereof shall acquire an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into another county, or if a district formed in a single county extends its area to include territory in an adjacent county as provided by KRS 74.115, it may operate the distribution system so acquired, or extended, provided the area served outside the county shall be deemed to be a minor portion of the total area served by the district, and provided the fiscal court of the county containing such minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within the county outside of the boundaries of the district, it will be conclusively presumed that said district comes within the terms of this subsection.

(2) A commissioner may be removed from office as provided by KRS 65.007.

(3) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only.

(4) The commission shall elect a chairman, secretary and treasurer. Each commissioner shall execute a bond, approved by the county judge/executive, conditioned on the faithful performance of the duties of his position.

(5) Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars ($3600), which shall be paid out of the water district fund. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judges/executive with the approval of the fiscal court; in multi-county districts it shall be fixed by the agreement between the county judges/executive with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge/executive and the fiscal court shall take into consideration the financial condition of the district, and its ability to meet its obligations as they mature.

HB 717, AN ACT relating to rescue squads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) Rescue squads may be formed and duly authorized to perform in the public interest. Authorization to operate within a jurisdiction may be granted by the chief elected official of each metropolitan government, county, or city of the state. Squads must have a formal affiliation with the local disaster and emergency services organization.

(2) A rescue squad shall be composed of at least twelve (12) active members and shall maintain at least one (1) vehicle dedicated to rescue service. Squads may operate in conjunction with a fire department, or may operate as a separate unit.

(3) Each squad shall develop and maintain bylaws and written procedures to specify, as a minimum, election, succession, and term of officers; financial accounting; property accountability; and rules of

notification and response to emergencies.

(4) Rescue squads shall contribute to public safety and welfare by performing functions to include: removal of victims trapped in vehicles or structures; search for lost or missing persons, except those sought for criminal acts; first aid; emergency evacuation; recovery of drowning victims; recovery of any corpse if not accessible by ambulance or hearse and if so authorized by the coroner; traffic control at an accident scene when requested by law enforcement authorities; and providing assistance in the containment of spilled hazardous materials, when sufficient equipment and trained personnel are available to the squad.

(5) The division shall administer funds appropriated for rescue equipment and training and shall promulgate rules and regulations to be applied to all squads that apply for financial assistance.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) The division shall provide workers' compensation coverage for all rescue squad members who are properly enrolled.

(2) Coverage shall extend to all operational functions specified in this chapter, and to training for such events. Coverage shall also extend to actions associated with installation, maintenance and repair of emergency equipment, and to maintenance and repair of rescue vehicles.

(3) Coverage shall not extend to any ambulance service or to any squad transporting accident victims or patients, except in those cases when the magnitude of the emergency exhausts ambulance resources normally available, or where an accident occurs in a location that is inaccessible by ambulance.

HB 781, AN ACT relating to solid waste disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

Any unit of local government that decides to initiate or expand solid waste collection and disposal into an area within the jurisdiction where the collection and disposal of solid waste is being provided by a private company, shall notify the company of its intent by certified mail return receipt requested. The unit of local government shall not commence such services for a period of three (3) years from the date of notification unless its governing body agrees to pay the affected company just compensation, which shall include fair market value of the company's equipment and reasonable compensation for the loss of business.

The Committee Amendment No. 1 to **HB 781** is as follows:

Amend printed copy of **HB 781,** on page 1, line 7, by inserting after the word "*company*" and before the comma the following: "*which has provided the service for at least six (6) months*".

HB 800, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.050 is amended to read as follows:

If there exists threatened violence or intense feeling and public indignation against a person charged with a crime and in the custody of an officer, *or if a prisoner presents a clear and present threat to the community,* and the circuit judge of the county that has jurisdiction of the offense charged is of the opinion that the person cannot be safely kept in the jail in that county, the circuit judge, with the consent of the governor, may order such person removed for safekeeping to the state penitentiary most convenient to the county having jurisdiction of the offense charged. In the absence of the circuit judge from the county, the district judge of the county may exercise the powers conferred by this section upon the circuit judge. The officer who makes the removal shall be entitled to the actual expenses in making the removal, and in addition he shall receive a fee of five dollars ($5.00) per day for himself and two and one-half dollars ($2.50) per day each for not more than two guards. The claim for fees and expenses shall be presented for approval to the circuit court of the county having jurisdiction of the offense. The compensation shall be allowed by the circuit or district judge directing the transfer and paid out of the treasury of the responsible unit of government.

HB 812, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 74.414 is amended to read as follows:

(1) The commissioners of a water district, in order to abate possible health menaces in their area and to increase the consumption of water in the area, or whenever such commissioners deem it to be for the general benefit of the water district, shall have the authority to contract with any city, water district or sewer construction district, or other incorporated municipality or district, to provide for the operation of a water system, or a sanitary sewer system, or both, regardless of whether or not such water district operated by said board of commissioners has or will acquire any ownership rights in such systems to be so operated, upon such terms and conditions as such board of commissioners may deem appropriate, with or without any consideration being paid to or received by such water districts, other than the general benefit which may accrue to the water district from having more water or sewer customers and consequent increased use of water or sewer services.

(2) No municipality shall have the right to acquire the property of a water district or water association through the exercise of the power of eminent domain.

SB 209, AN ACT relating to fiscal courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.050 is amended to read as follows:

(1) Any county may have a fiscal court consisting of the county judge/executive and three (3) commissioners elected from the county at large. To ascertain whether the county desires to have county commissioners, the county judge/executive, upon an application by written petition signed by one hundred (100) legal voters of the county, shall enter an order on his order book calling an election to submit to the legal voters of the county the following question: "Are you for or against having a fiscal court composed of three (3) commissioners and the county judge/executive?" The order shall be entered at the next regular term after the petition is filed, and shall direct the election to be held at the next regular election to be held in the county that does not occur within less than sixty (60) days from the filing of the petition. The county clerk shall give to the sheriff or other officer appointed to hold the election a certified copy of the order within five (5) days after the order is made, and the sheriff or other officer shall have the order published pursuant to KRS chapter 424 and in addition advertise it by printed handbills posted at one or more conspicuous places in each precinct in the county for the length of time that publication is required, stating when the election will be held and the purpose thereof.

(2) All such elections shall be held under the general election laws. No such election shall be held in any county *more often* [~~oftener~~] than once in four (4) years.

(3) Any county that has voted in favor of having county commissioners may return to its prior form of government by following the same procedures as provided in subsections (1) and (2) of this section, by which it chose to have county commissioners. *A petition for an election on a return to a fiscal court composed of justices of the peace and the county judge/executive shall state a proposed number of justices of the peace. The question to be submitted to the voters shall be in the following form: "Are you in favor of a return to a fiscal court composed of the county judge/executive and (insert the proposed number of justices) justices of the peace who shall represent specific districts within the county?"*

(4) If a majority of the votes cast at an election held under subsection (3) of this section are in favor of a return to a fiscal court composed of justices of the peace and the county judge/executive, the fiscal court shall, if necessary, initiate proceedings to reapportion the justices districts, and such reapportionment shall conform to the requirements of KRS 67.045. The change in the composition of the fiscal court shall become effective upon the assumption of office of justices of the peace elected at the next regular election for that office.

Section 2. KRS 67.060 is amended to read as follows:

(1) If a majority of the votes cast at an election held under KRS 67.050 are in favor of the fiscal court being composed of the county judge/executive and three (3) commissioners, the county judge/executive shall, before the next regular election for county officers, divide the county into three (3) districts as nearly equal in population as practicable, and shall establish the boundary lines of each of the three (3) commissioner districts so that each district is an unbroken area and not split or divided by another commissioner district. At the next regular election for county officers, and every four (4) years thereafter, there shall be elected by the voters of the entire county three (3) commissioners, one (1) from each district who, with the county judge/executive, shall constitute the fiscal court.

(2)(a) In any county containing a city of the first class, which county has heretofore voted in favor of a fiscal court composed of the county judge/executive and three (3) county commissioners, the county judge/executive shall divide the county into three (3) districts as provided in subsection (1), the districts to be designated for identification purposes by the letters A, B and C, respectively.

(b) The three (3) commissioners shall be elected by the qualified voters of the county at large at regular elections held every four (4) years. One commissioner shall represent District A and shall be elected at the regular election in the year 1973, and two (2) commissioners who shall represent Districts B and C, respectively, shall be elected at the regular election in the year 1975.

(3) Persons seeking the nomination of a political party as candidate for the office of county commissioner shall, where a primary election is required for such political party, be voted upon exclusively by the eligible voters of the district in which the person resides and seeks to represent. Persons seeking the nomination of a minor political party, persons who file as independent candidates or persons seeking the nomination in counties containing cities of the second class shall not be subject to the provisions of this paragraph. They shall be nominated by the voters of the entire county.

(4) To be eligible for election as a commissioner representing one of the three (3) districts, a person shall have been a bona fide resident of the district he proposes to represent for at least one (1) year immediately preceding the election, and, upon election, shall continue to reside within the district he was elected to represent for the duration of his term of office, under penalty of forfeiture of the office.

(5) Commissioners elected under this section shall take the oath of office and enter upon the discharge of their duties on the first Monday in January after their election, and shall serve for terms of four (4) years and until their successors are elected and qualify, *or until the effective date of a return to a fiscal court composed of justices of the peace and the county judge/executive.*

(6) No person is eligible to be a county commissioner unless he is at least twenty-four (24) years of age and has been for two (2) years next preceding his election a resident of the county and a citizen of Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

In counties containing a city of the first class where the fiscal court is composed of justices of the peace and the county judge/executive, the county shall be divided into eight (8) justices' districts and the justice elected from each district shall be entitled a magistrate/representative.

The Committee on Labor and Industry reported **HB 735, HB 347,** and **SB 239** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 735, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.450 is amended to read as follows:

(1) Every insurance carrier including the parties to any inter-indemnity contract or reciprocal plan or scheme, insuring employes in this state against liability for personal injuries to their employes, or death caused thereby under this chapter, shall pay a tax upon the premium received, whether in cash or notes, in this state or on account of business done in this state, for such insurance in this state at the rate of two percent (2%) of the amount of such premium and any additional assessment made pursuant to subsection (2) of this section. Such insurance carriers shall be credited with all cancelled or returned premiums, including dividends paid or credited to policyholders, and the premiums received for reinsurance assumed from companies authorized and licensed to transact business in this state.

(2) If the secretary of finance and administration and the secretary of labor find that the tax on premiums levied pursuant to KRS 342.475 and subsection (1) of this section, are insufficient to meet the maintenance fund level of appropriations and expenditures for all programs in the labor cabinet, the Kentucky occupational safety and health review commission and the uninsured employers' fund as reflected in the enacted budget of the Commonwealth and the joint budget bill enacted by the general assembly, they shall advise the commissioner of revenue in writing of such fact prior to the end of each fiscal year. The commissioner of revenue may then levy one (1) additional assessment per fiscal year against all insurance companies writing workers' compensation insurance in Kentucky, all self-insurance groups operating under this chapter, and every employer carrying his own risk. The amount of each assessment shall be in the proportion that each assessment payers' "adjusted cost" bears to the total "adjusted cost" of all assessment payers.

(3) Every such insurance carrier shall make an annual return verified by the affidavit of its president and secretary, or other chief officer or agents, to the department of revenue, stating the amount of all such premiums and credits during the period covered by that return. Every insurance carrier required to make such return shall file it by March 1, and shall at the same time pay *the* [a] tax of two dollars ($2.00) on each one

hundred dollars ($100) of such premiums ascertained as provided in *subsection (1) of this section* hereof [~~KRS 342.445~~], less returned premiums, including dividends paid or credited to policyholders, and reinsurance received from other companies licensed to transact business in this state, *and shall thereafter pay any additional assessment made pursuant to subsection (2) of this section, at the time and in the manner prescribed by the commissioner of revenue.*

Section 2. KRS 342.475 is amended to read as follows:

Every employer carrying his own risk under KRS 342.340 shall, under oath, report to the department of revenue his "adjusted cost" of operating under the provisions of this chapter during the period covered by such report. Such report shall be made in form prescribed by the department of revenue and at the time provided for premium reports by the insurance carriers. The department of revenue shall assess against such "adjusted costs" so reported a maintenance fund tax of two per cent (2%), *and shall made an additional assessment if required by Section 1 of this Act. Such amount shall not exceed the maintenance fund level of appropriations and expenditures for all programs in the labor cabinet, the Kentucky occupational safety and health review commission and the uninsured employers' fund as reflected in the enacted budget of the Commonwealth enacted by the general assembly.*

HB 347, AN ACT relating to minimum wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

[~~(1)~~] Except as may otherwise be provided by this chapter, every employer shall pay to each of his employes wages at a rate of not less than two dollars sixty cents ($2.60) an hour.

[~~(2) For any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars ($20.00) per month in tips from patrons or others, the employer may pay as a minimum fifty percent (50%) of the wage prescribed in subsection (1) of this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in subsection (1) was received by the employe. No employer shall use all or part of any tips or gratuities received by employes toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employes from entering into an agreement to divide tips or gratuities among themselves.~~]

Section 2. KRS 337.295 is amended to read as follows:

Regulations issued by the commissioner under KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405 may include, but are not limited to, regulations defining and governing bona fide executive, administrative or professional employes; regulations governing learners, apprentices, handicapped workers, sheltered workshop employes, and students, regulations governing outside salesmen; bonuses; part-time rates; special pay for special or extra work; allowances as part of the wage rates applicable under KRS 337.275 for board *and*[~~,~~] lodging [~~and gratuities~~]; other facilities or services furnished by employers and used by employes; and other special items usual in a particular employer-employe relationship.

SB 239, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the state of Kentucky all applicable state laws and all rules and regulations necessary in accordance with applicable state laws to protect, develop and maintain the health, welfare, personal dignity, integrity and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the department for human resources. The secretary shall adopt, administer and enforce such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with other state and federal agencies for the proper administration of the department and its programs.

(2) The secretary shall utilize the Citizens' Commission for Human Resources, the Institute for Aging, the Institute for Children, the *State Job Training Coordinating* Council [~~for Manpower Services~~], the Council for Social Services, the Council for Health Services, or the Council for Social Insurance to review and make recommendations on contemplated administrative regulations. The appropriate citizens' council or

councils shall be involved in the development of all administrative regulations issued under the authority of the department. No administrative regulations issued under the authority of the department shall be filed with the legislative research commission unless issued under the authority of the secretary and the secretary shall not delegate this authority. All administrative regulations prepared within the department shall be attested as to form and legality by the office of the counsel.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the department for human resources. All fees collected for inspections shall be deposited in the state treasury and credited to a revolving fund account to be used for administration of those programs of the department for human resources. The balance of said account shall lapse to the general fund at the end of each biennium. Such fees shall not be charged for investigation of complaints.

Section 2. KRS 194.090 is amended to read as follows:

The department shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the department shall have the following structure:

(1) There is hereby created, within the department, a citizens' commission for human resources.

(a) The citizens' commission for human resources shall advise the governor, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the health, welfare, manpower, and other human service needs of the citizens of the Commonwealth of Kentucky and the health, welfare, manpower, and other human service programs developed and operated by the Commonwealth of Kentucky to address those needs. The citizens' commission for human resources shall also advise the secretary for human resources on the identification of service needs, the formulation of policy, the development of program alternatives, the evaluation of program proposals, the determination of program priorities, the allocation of resources, proposed state and federal legislation, and proposed state and federal administrative regulations.

(b) The citizens' commission for human resources shall be composed of no more than fifteen (15) members appointed by the governor. The members of the citizens' commission for human resources shall be chosen to broadly represent public interest groups concerned with the human service programs operated by the department for human resources, professionals involved in the delivery of human services, minority groups, recipients of human services provided by the state, and the general public. The governor shall appoint the chairman of the citizens' commission for human resources upon the recommendation of the secretary for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the citizens' commission for human resources. The citizens' commission for human resources shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the citizens' commission for human resources or the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(2) There is hereby created within the department for human resources a council for health services.

(a) The council for health services shall advise the citizens' commission for human resources, the secretary for human resources, the commissioner for health services, and other officials of the Commonwealth on policy matters concerning the delivery of health services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council for health services shall be utilized by the cabinet for human resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide health services.

(b) The council for health services shall be composed of no more than nineteen (19) citizen members appointed by the governor. Members of the council for health services shall be chosen to broadly represent public interest groups concerned with health services, professionals involved in the delivery of health services, recipients of health services provided by the state, minority groups, and the general public. The governor shall appoint the chairman of the council for health services who by virtue of his appointment shall also serve as one of the voting members of the citizens' commission for human resources. The secretary for human resources and the commissioner for health services shall be nonvoting ex officio members of the council for health services, and the commissioner for health services shall be staff director for, and secretary to the council for health services. The council for health services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for health services. A majority of the appointed members shall constitute a quorum.

(3) There is hereby created within the cabinet for human resources a council for social insurance.

(a) The council for social insurance shall advise the citizens' commission for human resources, the secretary for human resources, the commissioner for social insurance, and other officials of the Commonwealth on policy matters concerning the delivery of social alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council for social insurance shall be utilized by the cabinet for human resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide income maintenance and supplementation services.

(b) The council for social insurance shall be composed of no more than fifteen (15) citizen members appointed by the governor. Members of the council for social insurance shall be chosen to broadly represent public interest groups concerned with social insurance programs operated by the Commonwealth, minority groups, the poor, recipients of social insurance services provided by the state and the general public. The governor shall appoint the chairman of the council for social insurance, who by virtue of his appointment shall also serve as one of the voting members of the citizens' commission for human resources. The secretary for human resources and the commissioner for social insurance shall be nonvoting ex officio members of the council for social insurance, and the commissioner for social insurance shall be staff director for and secretary to the council for social insurance. The council for social insurance shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social insurance. A majority of the appointed members shall constitute a quorum.

(4) There is hereby created within the cabinet for human resources a council for social services.

(a) The council for social services shall advise the citizens' commission for human resources, the secretary for human resources, the commissioner for social services, and other officials of the Commonwealth on policy matters concerning the delivery of social services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council for social services shall be utilized by the cabinet for human resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide social services.

(b) The council for social services shall be composed of no more than fifteen (15) citizen members appointed by the governor. Members of the council for social services shall be chosen to broadly represent public interest groups concerned with social services, professionals involved in the delivery of social services, minority groups, the disadvantaged, recipients of social services provided by the state, and the general public. The governor shall appoint the chairman of the council for social services, who by virtue of his appointment shall also serve as one of the voting members of the citizens' commission for human resources. The secretary for human resources and the commissioner for social services shall be nonvoting ex officio members of the council for social services, and the commissioner for social services shall be staff director for, and secretary to, the council for social services. The council for social services shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources or the commissioner for social services. A majority of the appointed members shall constitute a quorum.

(5) There is hereby created within the cabinet for human resources a state *job training coordinating* [~~employment and training~~] council *which for administrative and support purposes shall be attached to the department for manpower services.*

(a) The council shall advise the citizens' commission for human resources, the secretary for human resources, the commissioner for manpower services, and other officials of the Commonwealth on policy matters concerning the delivery of manpower services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the department for human resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide manpower services.

(b) The council shall review the *operation of programs conducted in each service delivery area* [~~programs of prime sponsors~~] and the availability, *responsiveness, and adequacy* of state services, and shall prepare reports and make recommendations to the governor to improve these programs. The council shall furthermore do all necessary to comply with Public Law No. *97-300* [~~95-524~~], the *job training partnership* [~~comprehensive employment and training~~] act [~~amendments~~] of *1982, and it shall execute such other manpower and training responsibilities not enumerated in Public Law No. 97-300 as determined by the governor, the secretary for human resources or the commissioner of the department for manpower services* [~~1978~~].

(c) The council shall consist of *at least twenty-five (25)* [~~twenty-eight (28)~~] members *who shall be* appointed by the governor *and who shall serve for a term of four (4) years or until such time as a successor is appointed and qualified except that upon initial appointment eight (8) of the members shall serve for a term of one (1) year, eight (8) of the members shall serve for a term of two (2) years, and nine (9) of the members shall serve for a term of three (3) years. In the event of a vacancy the governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the governor shall annually appoint a chairman who shall not be an employe of state government. The commissioner of the department for manpower services or his designee shall serve as secretary of the council. The department for manpower services shall provide the council with professional, technical and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.*

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the commissioner of the department for manpower services and notice of such meetings shall be either in writing or by telephone. For the purpose of conducting business, one-half (1/2) of the membership, excluding any vacancies, shall constitute a quorum [~~Members shall represent those groups as required by Public Law No. 95-524, including units of local government, including those which are prime sponsors, representatives of the eligible population served and the general public, representatives of service deliverers, and representatives of organized labor, business and agricultural employers or workers. The governor shall designate a chairman of the council, who by virtue of appointment shall serve as a voting member on the citizens' commission for human resources. The council shall be attached to the bureau for manpower services which shall provide all support services. Members shall be compensated for necessary expenses in attending meetings~~].

(6) There is hereby created within the cabinet for human resources an institute for aging.

(a) The institute for aging shall advise the citizens' commission for human resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged. The institute for aging shall be primarily concerned with identifying special needs of the aged and advising the secretary for human resources on how the cabinet may integrate its various programs and services to yield the maximum possible benefit for the aged. The institute for aging shall be utilized by the cabinet for human resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to the aged.

(b) The institute for aging shall be composed of no more than eleven (11) citizen members appointed by the governor. Members of the institute for aging shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The governor shall appoint a chairman of the institute for aging, who by virtue of his appointment shall also serve as one of the voting members of the citizens' commission for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the institute for aging. The institute for aging shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

(7) There is hereby created within the cabinet for human resources an institute for children.

(a) The institute for children shall advise the citizens' commission for human resources, the secretary for human resources, and other officials of the Commonwealth on policy matters relating to the development and delivery of services to children, adolescents, and the developmentally disabled. The institute for children shall be primarily concerned with identifying the special needs of these clientele groups and advising the secretary on how the cabinet for human resources may integrate its various programs and services to yield the maximum possible benefit for children, adolescents, and the developmentally disabled. The institute for children shall be utilized by the cabinet for human resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide services to these clientele groups.

(b) The institute for children shall be composed of no more than eleven (11) citizen members appointed by the governor. Members of the institute for children shall be chosen to broadly represent public interest groups concerned with the needs of children, adolescents, and the developmentally disabled, professionals involved in the delivery of services to these clientele groups, minority groups, recipients of state-provided services to these clientele groups, and the general public. The governor shall appoint a chairman of the institute for children who by virtue of his appointment shall also serve as one of the voting members of the citizens' commission for human resources. The secretary for human resources shall be a nonvoting ex officio member of, staff director for, and secretary to, the institute for children. The institute for children shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for human resources. A majority of the appointed members shall constitute a quorum.

Section 3. KRS 194.100 is amended to read as follows:

There shall be an annual joint conference of all members of the citizens' commission for human resources, the institute for aging, the institute for children, the *state job training coordinating* council [~~for manpower services~~], the council for social services, the council for social insurance, and the council for health services. The secretary for human resources shall be chairman of the annual joint conference and shall utilize this conference to discuss and receive joint recommendations from all of the commissions, institutes and councils involved in the programs and services of the department.

Section 4. KRS 194.140 is amended to read as follows:

Whenever the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the *state job training coordinating* council [~~for manpower services~~], and the council for social services are assigned a responsibility for qualifying the Commonwealth for federal programs with representation and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create from the membership of the citizens' councils special subcommittees within these citizens' councils which meet federal requirements.

Section 5. KRS 194.180 is amended to read as follows:

All rules, regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the *state job training coordinating* council [~~for manpower services~~], the council for social services, the advisory council for medical assistance, and the comprehensive health planning council, shall remain in effect as rules, regulations, acts, determinations, and decisions of the department unless duly modified or repealed by the secretary.

Section 6. KRS 194.190 is amended to read as follows:

The citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the *state job training coordinating* council [~~for manpower services~~], the council for social services, the advisory council for medical assistance, the comprehensive health planning council, and the Kentucky certificate of need and licensure board shall be empowered to accept gifts and grants, but all such moneys shall be administered by the department, which shall administer these funds through appropriate trust and agency accounts.

Section 7. KRS 194.200 is amended to read as follows:

The members of the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the *state job training coordinating* council [~~for manpower services~~], and the council for social services shall receive no compensation for their services, but shall be allowed the necessary and actual expenses incurred through the performance of their duties as members of these citizens' councils. No member of a citizens' council shall be held to be a public officer by reason of his membership on a council.

Section 8. KRS 194.210 is amended to read as follows:

Whenever the kidney disease advisory council, the family planning committee, the tuberculosis commission, the Kentucky manpower commission, the Kentucky advisory committee on day care, the Kentucky children's advisory council, the state advisory committee for public assistance, the Kentucky commission on employment of the handicapped, the advisory committee to the Kentucky commission on employment of the handicapped, the advisory council on mental retardation, the developmental disabilities services act advisory council, the Kentucky commission on alcoholism and drug problems, the commission on aging, the advisory committee on aging, the commission on handicapped children, the commission on children and youth, the state board of health, the radiation operators' advisory committee, the advisory council for medical assistance, the comprehensive health planning council, and the Kentucky certificate of need and licensure board, as they relate to the functions transferred in whole or in part by 1974 Acts ch. 74, or members thereof are referred to or designated in any law, regulation, contract, or order pertaining to the functions, powers, obligations, and duties vested in the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the council for manpower services, the council for social services, the advisory council for medical assistance, the comprehensive health planning commission, and the Kentucky certificate of need and licensure board, in accordance with 1974 Acts ch. 74, such references or designations shall be deemed to refer to the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the *state job training coordinating* council [~~for manpower services~~], the council for social services, the advisory council on medical assistance, the comprehensive health planning council, and the Kentucky certificate of need and licensure board, or the cabinet for human resources, or the secretary for human resources, as may be appropriate.

Section 9. The general assembly confirms the reorganization within the department for manpower services by Executive Order 83-527 issued on June 3, 1983, to the extent that Executive Order 83-527 is not otherwise confirmed by this Act.

The Committee on State Government reported **SB 56,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 56, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.212 is amended to read as follows:

(1) If, before the time of certification provided in KRS 118.215, any candidate whose certificate or petition of nomination has been filed in the office of the secretary of state *dies or* notifies the secretary of state in writing, signed and properly notarized that he will not accept the nomination, the secretary of state shall not certify his name.

(2) If, before the ballots are printed, any candidate whose certificate or petition of nomination has been filed in the office of the county clerk *dies or* notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(3) If, after the ballots are printed, any candidate, whose name appears thereon, shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the primary or regular election ballot.

The Committee Substitute to **SB 56** is as follows:

SB 56, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any contrary provisions of the comprehensive plan of an urban-county government, procedures for the conduct of elections for the offices of chief executive officer and legislative body member shall be as described in this section; provided, however, that all legislative body members to be elected from districts shall only be elected by the qualified voters in each district and all other officers shall be elected by the qualified voters of the county, as prescribed by the comprehensive plan.

(2) All candidates for the offices of urban-county government chief executive officer and legislative body member shall be nominated by a nonpartisan primary election to be held at the time prescribed by law for primary elections generally. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the county or twenty (20) of voters, whichever is less. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the County of ______________ *request that the name of* ______________ *be placed before the voters of the county as that of an applicant for nomination for the office of* ________________ *at the primary election to be held in our county on* __________*. We know the applicant to be a qualified voter of the county and a person of good character, and he is, in our judgment, qualified for the duties of the office.*

Name	*Number N*	*Street*
		"

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) A primary election shall be held only if there are more than two (2) applicants for nomination as chief executive officer; or more than two (2) applicants for nomination as legislative body member elected in any district; or more than twice the number of applicants for nomination as at-large legislative body member than the number of at-large members to be elected. If a primary election is not required, the applicants for nomination shall thereby be nominated, no primary election shall be held for that office, and subsection (5) of this section shall not apply.

(7) If before the time of certification provided in the election law generally, any candidate whose petition has been filed in the office of the county clerk dies or notifies the county clerk in writing, signed and

properly notarized, that he will not accept the nomination, the county clerk shall not certify his name.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

(10) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(11) Names of applicants for each nomination shall be placed before the voters of the county. The voters shall be instructed to vote for one candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in the case of legislative body members at-large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(12) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(13) Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(14) The two (2) applicants receiving the highest number of votes for nomination for each office shall be nominated, or where the nominations are for legislative body members at-large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(15) At the regular election following a nonpartisan primary election, the names of the successful nominees shall be placed before the voters.

(16) The nominee receiving the greater number of votes cast for each office shall be elected.

(17) General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan urban-county government elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for office.

SECTION 2. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) In addition to possessing all other qualifications, any person desiring to become a write-in candidate in a general or special election for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of congress and members of the general assembly, shall file a registration paper with the county clerk not later than fourteen (14) days before the election. Any person desiring to become a write-in candidate in a general or special election for an office to be voted for by the electors of more than one (1) county, or for members of congress and members of the general assembly, shall file a registration paper with the secretary of state not later than fourteen (14) days before the election.

(2) The registration paper to be filed by the candidate shall be a signed statement by him to include his name, place of residence, date of birth, the office which he seeks, and a statement of qualifications. When the law mandates that a candidate shall possess the qualifications required for the office on the date of the election, such statement shall include a statement that the candidate shall meet such qualifications. When the law mandates that a candidate shall possess the qualifications required for the office on the date he shall assume the office, such statement shall include a statement that the candidate shall meet such qualifications. The registration paper shall be in the form prescribed by the state board of elections.

(3) Write-in candidates shall be required to pay a filing fee.

(4) The secretary of state shall notify the county clerk in each county in which there will appear on the ballot an office for which a write-in candidate has registered with the secretary of state. Such notice shall be made by certified mail not later than seven (7) days before the date of the election.

SECTION 3. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) In addition to possessing all other qualifications, any person desiring to become a write-in candidate in a general or special election for an office of the court of justice shall file a registration paper with the secretary of state not later than fourteen (14) days before the election.

(2) The registration paper to be filed by the candidate shall be a signed statement by him to include his name, place of residence, date of birth, the office which he seeks, and a statement that on the date he shall assume office he shall possess the required qualifications for the office he seeks. The registration paper shall be in the form prescribed by the state board of elections.

(3) Write-in candidates shall be required to pay a filing fee.

(4) The secretary of state shall notify the county clerk in each county in which there will appear on the ballot an office for which a write-in candidate has registered with the secretary of state. Such notice shall

be made by certified mail not later than seven (7) days before the date of the election.

Section 4. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	2.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	2.50
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	14.00
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00
For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	2.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00

Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for office	*20.00* [~~5.00~~]
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	.75
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271A, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00
Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50
Filing certification required by KRS 65.070 (1) (a)	2.00
Certification of franchise tax assessment	2.50

Section 5. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, *by* at least *the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk,* [~~fifty-five (55) days before the primary election,~~] file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city or twenty (20) voters, whichever is less. Each voter may sign a slated petition up to the number of offices to be filled for a particular position or may sign individual petitions equal to the number of offices to be filled.[~~,~~] If a voter signs petitions for more candidates than he is authorized then he shall be counted as a petitioner for the candidate whose petition is filed first. The petition shall be in the following form:

"We the undersigned, qualified voters of the City of ______________ request that the name of ______________ be placed before the voters of the city as that of an applicant for nomination for the office of ______________ at the primary election to be held in our city on the *date prescribed by law for primary elections generally* [~~fourth Tuesday in August ,~~ ________]. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name Number N Street

______________________ ______________________ ______________________
______________________ ______________________ ______________________
______________________ ______________________ ______________________"

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6)[~~(5)~~] Subsection *(5)* [~~(4)~~] of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the time of certification provided in the election law generally, any candidate whose petition has been filed in the office of the county clerk, dies or notifies the county clerk in writing, signed and properly notarized, that he will not accept the nomination, the county clerk shall not certify his name.

(9) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk dies or notifies the clerk in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(10) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on the ballot.

(11)[~~(6)~~] Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at-large. No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(12)[~~(7)~~] Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(13)[~~(8)~~] Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(14)[~~(9)~~] The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(15) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. county clerk shall not certify his name.

(16)[~~(10)~~] At the regular election following a nonpartisan primary election, the names of the successful nominees shall be placed before the voters.

(17)[~~(11)~~] The nominee receiving the greater number of votes cast for each city office shall be elected.

(18)[~~(12)~~] General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 6. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) Except during implementation of the initial statewide registration, the county board of elections shall cause all registration to be closed the thirty (30) days prior to, and the five (5) days following, any primary or general election, and the ten (10) days prior to any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed; except that, registration shall be closed only in those precincts in which the election is held.

(3) In all counties the county clerk, when authorized by the county board, shall receive registration, transfers, or change of party affiliation at branch offices at any place in the county during those periods that the registration books are open. However, notice in the manner provided by KRS Chapter 424 must be given at least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice must be given to the county executive committee of each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation in any of the following ways:

(a) In person;

(b) By mail;

(c) By means of the federal post card application, if the person is a resident of Kentucky and a member of the armed forces, or a dependent of members of the armed forces; or

(d) By such other methods of registration, or reregistration, as approved by the state board of elections, including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county board of elections, which may include door to door canvassing.

(5) Voter registrations, transfers, or party affiliation changes which are made by mail shall be considered to be received by the county clerk on the postmark date, provided that such mail is received within three (3) days of the postmark date.

(6) Upon receipt of the form prescribed by the state board of elections, properly filled out and signed by the applicant, the county clerk shall register the applicant.

(7)[~~(6)~~] Any individual or group shall have access to a reasonable number of voter registration forms in the county clerk's office. Such individual or group shall return these completed forms to the county clerk for official registration by the county clerk.

(8)[~~(7)~~] The county clerk shall provide voter registration forms to each principal or assistant principal of every public high school, each area vocational school, and upon request, private schools, who shall designate a person in each school who shall be responsible for informing students and school personnel of the availability of the registration forms and assist them in registering with the party of their choice. The completed forms shall be returned to the county clerk, for official registration by the county clerk.

Section 7. KRS 116.145 is amended to read as follows:

[~~(1)~~] The fee for registration of all voters shall be paid to the county clerk by the state in the amount of twenty-five cents (25) for each person registered.

[~~(2) The amount of sixty dollars ($60) per precinct shall be paid biennially by the state to the county board of elections in counties containing a city of the first class for the purgation of precincts.~~]

Section 8. KRS 117.025 is amended to read as follows:

(1) The state board of elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The state board of elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including such legal counsel as is deemed necessary by the board.

(3) The state board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) Delete the name of any voter who is deceased or who is no longer qualified to vote in the precinct where currently registered as may be provided by law, or who has failed to vote at any primary or regular election for four (4) consecutive years. *Such names shall be deleted between the dates of the general and primary elections. The state board of elections shall*[~~, and~~] notify the local boards of election and the voter of such action and the reason therefor, by the tenth (10th) of the month following such action;

(c) Enter names on the various registration rosters as they are reported by the county boards of election;

(d) Furnish each county clerk with a master list of all registered voters in the county, together with three (3) lists of all registered voters in each precinct of the county, at least five (5) days prior to each election;

(e) Maintain all information furnished to the state board relating to the inclusion or deletion of names from the rosters for four (4) years;

(f) Furnish the state central executive committee of each political party at a reasonable cost qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(g) Purchase, lease or contract for the use of such equipment as may be necessary to properly carry out its duties under the provisions of this chapter and KRS chapters 116 and 118;

(h) Secure information from any source which may assist the board in carrying out the purposes of this section;

(i) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The state board of elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable cost, provided, however the board shall not furnish precinct lists to persons who intend to use such lists for commercial use.

Section 9. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail or in person his verified statement that his inability to appear is due to age, infirmity, or illness, and indicating whether or not the condition is temporary, applying to the instant election only, or is expected to be a continuing one. [~~If the condition is indicated as being continuing the voter need not file further statements of disability. For ensuing elections the voter may make reference to the statement previously filed when applying for a special ballot. The county clerk shall maintain a file of all such statements.~~] Upon receipt of the verified statement, the clerk shall immediately mail to the voter a special

ballot, and envelopes, and the voter shall cast his vote in the same manner as provided for the absent voter in KRS 117.087.

(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.

(3) In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for an absentee ballot. Such application shall state that the emergency condition occurred within the seven (7) day period and must be notarized. The application form shall be restricted to the use of the voter, the voter's spouse, the voter's parents, or the voter's dependent children. *If the voter has no spouse, parents or dependent children, the application form shall be restricted to the use of the voter or the voter's brother, sister, niece or nephew.* Upon receipt of the application and verification the county clerk shall issue an absentee ballot.

Section 10. KRS 117.145 is amended to read as follows:

(1) At least two (2) days before any special election, and at least *thirty (30)* [~~fifteen (15)~~] days before any primary or regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of special paper ballots. The special ballot shall be used for voting by absent voters; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all special ballots used for any of the purposes listed herein.

(3) At least three (3) days before a special or regular election the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary [~~for the department~~] of finance *and administration cabinet.*

Section 11. KRS 117.225 is amended to read as follows:

(1) Any person desiring to vote on election day shall give his name and address to the clerk of the election. If the person's name is listed on the precinct list furnished by the state board of elections as provided in KRS 117.025 and if no challenge is made, he shall sign his name on the precinct list in the space opposite his printed name. The voter's signature shall constitute his verification that he is a properly registered and qualified voter. *The clerk of the election may require reasonable identification from each voter.* The voter shall then retire alone to cast his vote on the voting machine. [~~There shall be provided by the county board of elections to each precinct the original registration form of each voter entitled to vote in that precinct. This form shall be for comparative signature purposes.~~]

(2) If supplemental paper ballots are used, as provided in KRS 118.215, after voting on the voting machine the voter shall take the supplemental paper ballot with the stub intact and retire alone to the voting booth provided for voting paper ballots. After voting the supplemental paper ballot, the voter shall remove the numbered stub, hand the stub to an election official and deposit the voted ballot in the locked ballot box.

Section 12. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any such precinct, any candidate and any representatives to witness and check the count of the votes therein, who are hereby authorized to be appointed as is provided in subsection (6) of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating:

(a) That the machine has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective or accumulative counter or device.

(3) The judges, in the presence of the representatives mentioned in subsection (1), if any, and of all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of such representatives, and in the order

of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The total votes cast for each candidate, and for and against each question, and the votes written in *for write-in candidates registered as required by Sections 2 and 3 of this Act*, shall then be entered on the general and quadruplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, quadruplicate return sheets shall remain exposed to view until the said returns and all other reports have been fully completed.

(4) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of the vote cast for each candidate and the vote for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the judges shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and precinct list, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. Said envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes, the county board shall immediately mail the tabulation result, the general return sheets and the precinct lists from each precinct to the state board of elections.

(5) As soon as possible after the completion of the count, the election officers shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(6) In primary elections, each candidate or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(7) If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The sheriff and the judge from the opposite political party from the sheriff shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the secretary of state. The county board of elections shall authorize the candidates or their representatives and representatives of the news media to be present during the counting of the paper ballots. The county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be burned by the county board of elections if no contest or recount action has been filed.

Section 13. KRS 118.115 is amended to read as follows:

Candidates for unexpired terms to be filled at a regular election shall be nominated at the primary next preceding the regular election, if the vacancy occurred not less than *one hundred five (105)* [~~seventy (70)~~] days before the primary. If the vacancy occurred less than *one hundred five (105)* [~~seventy (70)~~] days before the primary, the nomination shall be made in a manner determined by the governing authority of the political party concerned. In the preparation of ballots, candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.

Section 14. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than *seventy-five (75)* [~~ninety (90)~~] days before the day fixed by law for holding the primary election. Candidates for [~~all state~~] offices *to be voted for by the electors of more than one county, and for members of congress and members of the general assembly,* shall file their nomination papers with the secretary of state not less than *seventy-five (75)* [~~ninety (90)~~] days before the day fixed by law for holding the primary election.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate *to determine whether it is regular on its face*]. The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.

Section 15. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than ninety (90) days before the day fixed by law for holding the primary election. Candidates for [~~all state~~] offices *to be voted for by the electors of more than one (1) county, and for members of congress and members of the general assembly,* shall file their nomination papers with the secretary of state not less than ninety (90) days before the day fixed by law for holding the primary election.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate *to determine whether it is regular on its face.* The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.

Section 16. KRS 118.212 is amended to read as follows:

(1) If before the time of certification provided in KRS 118.215, any candidate whose *notification and declaration or* certificate or petition of nomination has been filed in the office of the secretary of state *dies or* notifies the secretary of state in writing, signed and properly notarized that he will not accept the nomination *or election,* the secretary of state shall not certify his name.

(2) If before the ballots are printed, any candidate whose *notification and declaration or* certificate or petition of nomination has been filed in the office of the county clerk *dies or* notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination *or election,* the clerk shall not cause his name to be printed on the ballot.

(3) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

Section 17. KRS 118.215 is amended to read as follows:

(1) Not less than *fifty-five (55)* [~~forty-five (45)~~] days before a primary [~~or regular~~] election *or seventy-five (75) days before a regular election* is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device *with* [~~under~~] which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) All independent candidates whose nominating petitions are filed with the county clerk shall be *designated by* [~~listed under~~] the word "independent," *and shall be placed on the ballot* in [~~one~~] *a separate column or columns or in a separate line or lines* according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same

device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section does not apply to candidates for municipal offices which comes under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged *with and designated by* [~~under and beneath~~] the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be *clearly* separated from *other* [~~the preceding or succeeding~~] groups *on* [~~by a line transversing~~] the [~~entire~~] ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state board of elections not less than *forty-five (45)* [~~35~~] days before the primary or *sixty (60) days before the* general election. The state board of elections shall meet within 5 days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 18. KRS 118.215 is amended to read as follows:

(1) Not less than *seventy-five (75)* [~~forty-five (45)~~] days before a primary or regular election is to be held, and after the order of the names has been determined as provided in KRS 118.225, the secretary of state shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device *with* [~~under~~] which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace and constable. The names of candidates for president and vice president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(2) All independent candidates whose nominating petitions are filed with the county clerk shall be *designated by* [~~listed under~~] the word "independent," *and shall be placed on the ballotin a separate* [~~one~~] column *or columns or in a separate line or lines* according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section does not apply to candidates for municipal offices which comes under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for such city offices grouped according to the offices they seek, and such candidates shall be immediately arranged *with and designated by* [~~under and beneath~~] the title of office such candidates seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which such candidates are to be elected shall be *clearly* separated from *other* [~~the preceding or succeeding~~] groups *on* [~~by a line transversing~~] the [~~entire~~] ballot and spaced so as to avoid confusion on the part of the voter.

(4) The secretary of state shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the state board of elections not less than *sixty (60)* [~~35~~] days before the primary or general election. The state board of elections shall meet within 5 days of such notice, review the ballot conditions and determine whether or not supplemental paper ballots are necessary for the election. Upon approval of the state board of elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote, provided that all candidates for any particular office shall be placed

either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 19. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots *with* [~~under~~] the designation of the respective offices, the secretary of state shall prepare lists of the counties of each congressional district of the state. He shall then arrange the surnames of all candidates for each office in alphabetical order for the first congressional district, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the secretary of state, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *seventy (70)* [~~fifty-three (53)~~] days before the primary [~~or general~~] election *or eighty-eight (88) days before the general election.*

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, *seventy (70)* [~~fifty-three (53)~~] days before the primary [~~or general~~] election *or eighty-eight (88) days before the general election.*

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the state board of elections, as provided in KRS 118.215.

Section 20. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots *with* [~~under~~] the designation of the respective offices, the secretary of state shall prepare lists of the counties of each congressional district of the state. He shall then arrange the surnames of all candidates for each office in alphabetical order for the first congressional district, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the secretary of state, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *eighty-eight (88)* [~~fifty-three (53)~~] days before the primary or general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, *eighty-eight (88)* [~~fifty-three (53)~~] days before the primary or general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the state board of elections, as provided in KRS 118.215.

Section 21. KRS 118.245 is amended to read as follows:

The candidate receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination. If two (2) or more persons are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons. [~~This section does not apply to presidential primaries.~~]

Section 22. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2) and (3) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the special ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the secretary of state or the appropriate county clerk.

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the secretary of state or the appropriate county clerk within the time prescribed in this chapter.

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the secretary of state or the appropriate county clerk, *by* at least *the date provided by the election law generally for such filing* [~~fifty-five (55) days before the regular election~~].

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the secretary of state or the appropriate county clerk within the time prescribed in this chapter.

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the secretary of state or the appropriate county clerk within the time prescribed in this chapter.

(f) Where a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If such ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to insertion in the proper ballot frames.

(g) Candidates for president and vice-president of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, where the certificate of nomination of such electors has been filed with the secretary of state within the time prescribed in this chapter.

(h) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210.

(2) Candidates for members of boards of education shall have their names printed on ballot labels and special ballots for the regular election only after filing as provided in KRS 160.220.

(3) Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and special ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(4) No county clerk shall knowingly cause to be printed, upon the ballot labels or special ballot for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws.

(5) The names of candidates for president and vice-president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(6) Whenever a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and secretary of state of the vacancy.

Section 23. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer or member of the general assembly, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for an officer of a precinct or ward, or other division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. No petitioner shall be counted unless his residence, social security number and post-office address are designated. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers desire, and are legally qualified, to vote for the candidate. The petition shall designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines. This does not apply to municipal and school board

races.

(3) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be accepted as the candidate's name.

(4) *The secretary of state and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the secretary of state or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.*

(5) The state board of elections shall prescribe the forms for the petition.

Section 24. KRS 118.345 is amended to read as follows:

(1) No candidate who has been defeated for the nomination for any office in a primary election shall have his name placed on voting machines *or shall register as a write-in candidate* in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election, except that if a vacancy occurs in the party nomination for which he was a candidate in the primary election his name may be placed on voting machines for the regular election as a candidate of that party if he has been duly made such party nominee after the vacancy occurs as provided in KRS 118.105.

(2) No person who was a candidate for nomination for any office in a primary election and who, before the succeeding regular election, is declared by the judgment of any court of competent jurisdiction to have violated, in the primary election, any provision of KRS chapter 121, or to be responsible for such violation by others, shall have his name placed on voting machines *or shall register as a write-in candidate* for any office to be voted for in the succeeding regular election.

[~~(3) This section does not apply to presidential preference primary candidates.~~]

Section 25. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the state board of elections shall be filed by that board with the secretary of state immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Certificates of nomination made by the governing authority of a party to fill vacancies in office, as provided in KRS 118.115, shall, [~~when required to be filed with the secretary of state,~~] be filed *as required with the secretary of state or county clerk* not less than *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for the election of the person in nomination. [~~When required to be filed with the county clerk, they shall be filed not less than fifty-five (55) days before the day fixed by law for the election of the person in nomination.~~]

(3) Petitions and certificates of nomination *shall*[~~, when required to~~] be filed *as required* with the secretary of state *or county clerk*[~~, shall be filed~~] not less than *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for the holding of regular elections. [~~When required to be filed with the county clerk, they shall be filed not less than fifty-five (55) days before the day fixed by law for holding of regular elections.~~]

(4) Petitions and certificates of nomination for electors of president and vice president of the United States shall be filed with the secretary of state not less than *ninety (90)* [~~fifty-five (55)~~] days prior to the date fixed by law for the election of such electors.

Section 26. KRS 118.375 is amended to read as follows:

Where a vacancy occurs in any elective office less than *one hundred five (105)* [~~seventy (70)~~] days before the primary or at any time after the primary, but not less than three (3) months before the general election, independent candidates may file their petitions at the time and place provided for in KRS 118.365.

Section 27. KRS 118.415 is amended to read as follows:

(1) When [~~Whenever~~] an amendment to the constitution has been proposed by the general assembly, the secretary of state shall cause the text of the proposed amendment to be published at least two (2) times in two (2) newspapers of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the general assembly are to be voted for. The publication shall be made at least *one hundred (100)* [~~ninety (90)~~] days preceding the election at which the amendment is to be voted on.

(2) The attorney general shall state the substance of the amendment in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and shall certify the question to the state board of elections to be placed on the voting machine. The state board of elections, not less than *seventy-five (75)* [~~forty-five (45)~~] days before the next regular election at which members of the general assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the attorney general, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(3) The votes cast for and against the amendment shall be counted, canvassed and certified to the state board of elections in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the

constitution.

(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the secretary of state is required to make in connection with elections.

Section 28. KRS 118.425 is amended to read as follows:

(1) The state board of elections shall issue certificates of election where the successful candidate was voted for by the state at large or by a district greater than one (1) county, or was a candidate for member of congress or the general assembly.

(2) The county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of congress, members of the general assembly and designated officers filing with the state board of elections. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

(3) In the case of *all* offices voted for [~~by the state at large or by a district greater than one (1) county, and for members of congress and members of the general assembly~~], and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for such office and the total number of votes for and against each of such questions. The clerk shall keep one (1) of the certificates in his office. He shall not later than three (3) days after receiving such certificate from the board, forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.

(4) The state board of elections shall meet, to count and tabulate the votes received by the different candidates as certified to the secretary of state, when the returns are all in, or on the second Monday after the election whether they are in or not, but if all the returns are not made, the right to contest an election shall not be impaired. Any two (2) of the members of the board may act in the absence of the third. The board shall make out the certificates of election in the office of the board, from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate. The duplicate shall be retained in the office of the board. In the case of the election of a representative in congress, an additional certificate shall be made and sent, by mail, to the clerk of the house of representatives.

(5) The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons. In the case of elections for electors of president and vice president of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for president and vice president received the highest number of votes and the determination by the board that the candidates of any political party or organization for president and vice president have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

Section 29. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than *seventy-five (75)* [~~fifty-five (55)~~] days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) *The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.* The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *seventy (70)* [~~fifty-three (53)~~] days before the primary election.

(5) *If before the time of certification provided in subsection (6) of this section, any candidate whose petition of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the nomination, the secretary of state*

shall not certify his name.

(6) Not less than *fifty-five (55)* [~~forty-five (45)~~] days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice *with* [~~under~~] which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8)[~~(6)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(9) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the nomination, the county clerk shall not cause his name to be printed on the ballot.

(10) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

(11)[~~(7)~~] The names of the candidates shall be placed on the voting machine in a separate column or *columns or in a separate* line *or lines and identified* [~~headed or preceded~~] by the words "Judicial Ballot." [~~Above the names of candidates for nomination shall be printed~~] The words "Vote for one," or "Vote for one in each division," *shall be printed on the ballot in an* [~~as~~] appropriate *location.* The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(12)[~~(8)~~] The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(13)[~~(9)~~] If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 30. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for holding the primary election.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) *The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.* The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *eighty-eight (88)* [~~fifty-three (53)~~] days before the primary election.

(5) *If before the time of certification provided in subsection (6) of this section, any candidate whose petition of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the nomination, the secretary of state shall not certify his name.*

(6) Not less than *seventy-five (75)* [~~forty-five (45)~~] days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice *with* [~~under~~] which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8)[~~(6)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(9) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the nomination, the county clerk shall not cause his name to be printed on the ballot.

(10) If after the ballots are printed, any candidate whose name appear thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

(11)[~~(7)~~] The names of the candidates shall be placed on the voting machine in a separate column or *columns or in a separate* line *or lines and identified* [~~headed or preceded~~] by the words "Judicial Ballot." [~~Above the names of candidates for nomination shall be printed~~] The words "Vote for one," or "Vote for one in each division," *shall be printed on the ballot in an* [~~as~~] appropriate *location*. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(12)[~~(8)~~] The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(13)[~~(9)~~] If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 31. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *eighty-eight (88)* [~~fifty-three (53)~~] days before the regular election.

(2) *If before the time of certification provided in subsection (3) of this section, any candidate whose certificate of nomination has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the election, the secretary of state shall not certify his name.*

(3) Not less than *seventy-five (75)* [~~forty-five (45)~~] days before the regular election, and after the order of names on the ballot has been determined as required in subsection (1), the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice *with* [~~under~~] which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(4)[~~(3)~~] *The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.* The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(5) If before the ballots are printed, any candidate whose certificate of nomination has been filed dies or notifies the county clerk in writing, signed and properly notarized that he will not accept the election, the county clerk shall not cause his name to be printed on the ballot.

(6) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

(7)[~~(4)~~] The names of the candidates shall be placed on the voting machine in a separate column or *columns or in a separate* line *or lines and identified* [~~headed or preceded~~] by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. [~~Above the names of the candidates shall be printed~~] The words "Vote for one" or "Vote for one in each division," *shall be printed on the ballot in an* [~~as~~] appropriate *location*. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party

affiliation, shall be used on voting machines or special ballots.

(8)[~~(5)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 32. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than *one hundred five (105)* [~~seventy (70)~~] days before the primary. If the vacancy occurs on or after the *one hundred fifth* [~~seventieth~~] day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity or withdrawal, *and such candidates have not been replaced as provided in KRS 118A.060,* the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through *(10)* [~~(9)~~] of this section.

(3) Each candidate shall file a petition for candidacy with the secretary of state at least *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for holding the regular election.

(4) The petition for candidacy shall state the name and residence of the candidate and shall describe by district or circuit, and numbered division thereof if divisions exist, the judicial office for which he seeks election. It shall be signed by him and not less than two (2) registered voters from the district or circuit from which he seeks candidacy. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(5) *The secretary of state shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.*

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, *eighty-eight (88)* [~~fifty-three (53)~~] days before the regular election.

(7) If before the time of certification provided in subsection (8) of this section, any candidate whose petition for candidacy has been filed in the office of the secretary of state, dies or notifies the secretary of state in writing, signed and properly notarized, that he will not accept the election, the secretary of state shall not certify his name.

(8)[~~(6)~~] Not less than *seventy-five (75)* [~~forty-five (45)~~] days before the regular election, and after the order of names on the ballot has been determined as required in subsection *(6)* [~~(5)~~], the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice *with* [~~under~~] which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(9) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(10)[~~(7)~~] The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular election the names of the candidates for offices of the Court of Justice.

(11) If before the ballots are printed, any candidate whose petition for candidacy has been filed dies or notifies the county clerk in writing, signed and property notarized that he will not accept the election, the county clerk shall not cause his name to be printed on the ballot.

(12) If after the ballots are printed, any candidate whose name appears thereon shall die, the county clerk shall cause his name to be blocked out or obliterated from the ballot. The clerk shall not knowingly allow the name of a deceased person to appear on an election ballot.

(13)[~~(8)~~] The names of the candidates shall be placed on the voting machine in a separate column or *columns or in a separate* line *or lines and identified* [~~headed or preceded~~] by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. [~~Above the names of the candidates shall be printed~~] The words "Vote for one" or "Vote for one in each division," *shall be printed on the* [~~as~~] appropriate *location*. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(14)[~~(9)~~] The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 33. KRS 118A.110 is amended to read as follows:

The initial election of judges to the Court of Appeals shall be conducted in the regular election of 1976 without a primary election and in the manner prescribed in subsections (3) through *(12)* [~~(9)~~] of KRS 118A.100.

Section 34. KRS 118A.130 is amended to read as follows:

(1) No judicial candidate's name shall appear on any voting machine or special ballot more than once.

(2) No judicial candidate whose name appears on any voting machine or special ballot shall register as a write-in candidate, nor shall a candidate who has been defeated for the nomination for any judicial office in a primary election register as a write-in candidate in the succeeding regular election as a candidate for the same office for the nomination to which he was a candidate in the primary election, except that if a vacancy occurs in the nomination for which he was a candidate in the primary election, he may then register as a write-in candidate for the office.

Section 35. KRS 262.240 is amended to read as follows:

(1) A supervisor's term begins on January 1 following his election. The two (2) supervisors elected in the general election of 1974 shall be elected for a term of two (2) years. In 1976 a general election shall be conducted for seven (7) supervisors. The four (4) supervisors elected with the highest number of votes in the general election of 1976 shall serve for four (4) years; the other three (3) supervisors elected in 1976 shall serve for two (2) years. In the event only seven (7) nominating petitions for supervisors are filed, the commission shall declare the nominees elected without an election, and shall name four (4) of the nominees to serve terms of four (4) years, and three (3) to serve terms of two (2) years. Thereafter supervisors shall be elected for four (4) years as their terms expire. Nominating petitions for supervisors shall be filed with the county clerk not *later* [~~less~~] than *the last date prescribed by the election law generally for filing certificates and petitions of nomination* [~~fifty-five (55) days prior to the day of the election~~]. No such nominating petition shall be accepted by the clerk unless it is signed by twenty-five (25) or more qualified resident voters of the district. Qualified resident voters may sign more than one (1) nominating petition to nominate more than one (1) candidate for supervisor. In the event nominating petitions for only the number of supervisors to be elected are filed, the commission shall declare the nominees elected without holding an election. *The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.*

(2) A supervisor shall hold office until his successor has been elected and has qualified. Vacancies shall be filled for the unexpired term by appointment by the commission.

(3) A supervisor may be reimbursed for expenses necessarily incurred in the discharge of his duties and may be paid a per diem for attending meetings or otherwise discharging the obligations of his office.

(4) A supervisor shall be a resident of the county or district in which he serves as a supervisor, and upon moving from the county or district, the supervisor shall be ineligible to serve as a supervisor and his office shall be vacant.

(5) A supervisor who has been declared elected without an election pursuant to subsection (1) of this section may be removed from office by the commission in the same manner as provided by KRS 65.007 for removal of an appointed member of the governing body of a special district.

Section 36. The following KRS section is repealed:

116.127 Purge in counties containing a city of the first class biennially -- Procedure.

Section 37. The following KRS sections are repealed:

117.405 Definitions.
117.415 Powers and duties of commission as to voting machines.
117.425 Financing of voting machine projects.
117.435 Procedure for acquiring machines.
117.445 Negotiable and tax-free character of bonds -- Source of payment.
117.455 Ways in which money received may be used.
117.465 Sinking fund reserve.
117.475 Separate bond issue -- Procedure for two or more counties.
117.485 Action after termination of lease.
117.495 One or more separate bond issues for same county.
117.505 Bondholder's right to proceed.
117.515 Refunding bonds.
117.525 Additional and alternate character of provisions as to acquisition of voting machines.

Section 38. Whereas, this Act changes the dates for determining ballot order and for certifying ballot names for the 1984 primary election; and whereas this Act establishes election statutes for urban-county governments; and whereas this Act eliminates certain voter purges scheduled for May of 1984; and whereas this Act changes the schedule for statewide voter purgation; and whereas this Act deletes requirements relating to statements of disability to obtain a special ballot; and whereas this Act deletes the requirement that original voter registration forms be presented at the polls; and whereas this Act clarifies language relative to nomination by minor parties; and whereas this Act provides for removal from the ballot of deceased candidates; and whereas this Act modifies language relative to the judicial ballot; and whereas this Act requires county clerks to report the results of all elections of offices to the State Board of Elections, an emergency is declared to exist, and Sections 1, 5, 7, 8, 9, 11, 14, 16, 17, 19, 28, 29 and 36 shall become effective upon its passage and approval by the Governor.

The Committee Title Amendment to **SB 56** is as follows:

Amend printed copy of **SB 56**, page 1, title, by deleting "AN ACT relating to elections." and by substituting in lieu thereof the following: "AN ACT relating to elections and declaring an emergency."

Orders of the Day

HB 489 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved that **HB 489** be passed.

On the roll call the vote was yeas 66-Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Clapp, L. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Head, Hines, Holloway, Johnson, T. Jones, Kenton, Kidd, LeMaster, Little, Long, Lundergan, Mann, McBee, McElroy, McNutt, Meyer, Morris, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Yates. Nays 25-Allen, Caldwell, Endicott, Farrow, Ford, Fryman, Harper, Heleringer, Holbrook, R. Jones, Layman, Lefevers, Lile, List, Maggard, Moberly, Moore, Noland, Patrick, Rapier, Rattliff, Reinhardt, Robinson, Todd, Turner.

HB 489 was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 489** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 258, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Floor Amendment No. 4 to **HB 258**. Agreed.

Representative Mann moved that **HB 258,** as amended, be passed.

On the roll call the vote was yeas 57-Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Gray, Guenthner, Handy, Heleringer, Hines, Holbrook, Johnson, T. Jones, Kenton, Kidd, LeMaster, Little, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Nett, Noe, Noland, Overstreet, Perkins, Priddy, Rapier, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Van Horn, White, Williams. Nays 36-Allen, Caldwell, Craddock, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Hancock, Harper, Head, Holloway, R. Jones, Layman, Lefevers, Lile, List, Long, McNutt, Morris, O'Brien, Patrick, Pearman, Petty, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Thomason, Todd, Turner, Worthington.

HB 258, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 258,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 514, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Floor Amendment No. 3 to **HB 514.** Agreed.

Representative Deskins moved the adoption of the Floor Amendment No. 2 to **HB 514.** Agreed.

Representative Deskins moved that **HB 514,** as amended, be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 0.

HB 514, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 514,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 391, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Seum moved the adoption of the Floor Amendment No. 1 to **HB 391.** Agreed.

Representative Seum moved that **HB 391,** as amended, be passed.

On the roll call the vote was yeas 69-Allen, Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Bruce, Burnette, Caldwell, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Dawahare, Deskins, Dunn, Ellington, Ford, Foster, Fryman, Gedling, Guenthner, Hancock, Handy, Head, Heleringer, R. Jones, Kenton, Kidd, Layman, Lile, List, Little, Long, Lundergan, Maggard, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Priddy, Rapier, Reinhardt, Richards, B. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Todd, Van Horn, Worthington, Yates. Nays 18-Barrows, Burch, L. Clark, Crupper, Endicott, Freibert, Gray, Harper, Holbrook, Holloway, Johnson, Lefevers, Overstreet, Petty, Rattliff, P. Richardson, Turner, White.

HB 391, as amended, was passed and the title agreed to.

Representative Seum moved that the vote by which **HB 391,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 574 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 574** be passed.

On the roll call the vote was yeas 90-Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, Meyer, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 3-Barrows, Moberly, Yates.

HB 574 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 574** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the vote by which **HB 514**, as amended, was passed be reconsidered. Agreed.

Representative Deskins moved that the vote by which Floor Amendment No. 2 to **HB 514** was adopted be reconsidered. Agreed.

Representative Deskins moved the adoption of the Floor Amendment No. 1 to **HB 514**. Agreed.

Representative Deskins moved that **HB 514**, as amended be passed.

On the roll call the vote was yeas 90-Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 514, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 514**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 700 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved that **HB 700** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 700 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 700** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 72 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 72** be passed.

On the roll call the vote was yeas 95-Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 72 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 72** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 542, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Committee Amendment No. 1 to **HB 542.** Agreed.

Representative Deskins moved that **HB 542,** as amended, be passed.

On the roll call the vote was yeas 94-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 542, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 542,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 543, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Committee Amendment No. 1 to **HB 543.** Agreed.

Representative Deskins moved that **HB 543,** as amended, be passed.

On the roll call the vote was yeas 84-Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P.Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 7-Allen, Hancock, Holloway, Layman, Moore, Robinson, Turner.

HB 543, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 543,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 662, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Committee Amendment No. 1 to **HB 662.** Agreed.

Representative Deskins moved that **HB 662,** as amended, be passed.

On the roll call the vote was yeas 75-Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Johnson, R. Jones, Kenton, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 15-Allen, Dawahare, Ford, Fryman, Holbrook, Holloway, Layman, Lefevers, McNutt, Moore, Patrick, Reinhardt, Robinson, Todd, Turner.

HB 662, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 662,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 664, with Committee Substitute attached thereto, taken from orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Committee Substitute to **HB 664.** Agreed.

Representative Deskins moved that **HB 664,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 73-Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Freibert, Gray, Hancock, Handy, Harper, Head, Hines, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 21-Allen, Caldwell, Ellington, Ford, Foster, Fryman, Guenthner, Heleringer, Holbrook, Holloway, Layman, Lile, McNutt, Moore, Patrick, Pearman, Rattliff, Reinhardt, Robinson, Todd, Turner.

HB 664, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 664,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 425 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 425** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 425 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 425** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 18 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members

elected.

Representative Johnson moved that **HCR 18** be passed.

On the roll call the vote was yeas 88-Arnold, Barrows, Bendl, Bennett, Blandford, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Worthington, Yates. Nays 3-Ellington, Lefevers, Turner.

HCR 18 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HCR 18** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended to allow the posting of **SB 20** and to waive the three-day requirement. Agreed.

Representative LeMaster moved that the rules be suspended for Report of Committees. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 868.**

Business Organizations and Professions: **HB 924.**

Energy: **HB 777.**

Education: **HB 969, HB 981, HB 944, HB 910, HB 921, HB 923, HB 884, HB 827, SB 259, SB 269, SB 27, SB 208.**

Appropriations and Revenue: **HR 97, HB 887, HB 492, HB 932, HB 933, HB 633.**

Judiciary-Criminal: **SB 20.**

Labor and Industry: **HB 802, HB 973, HB 1000, HB 732, HB 740, HB 675, HB 770, HB 782, HB 794, HB 648, HB 878.**

Natural Resources and Environment: **HB 895, HB 729.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Business Organizations and Professions: **HB 828.**

Appropriations and Revenue: **HB 363, HB 203.**

Report of Committees

The Committee on Health and Welfare reported **HB 609**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 609, AN ACT relating to cancer.

WHEREAS, much anxiety and fear about breast cancer is based on misinformation; and

WHEREAS, the general assembly finds that persons with breast cancer have the right to receive all information available about the medical treatment of the disease; and

WHEREAS, the supplying of standardized information about alternatives in the treatment of breast cancer aids the cancer patient in thoroughly discussing with the physician the treatment of the disease;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No later than one (1) year after the effective date of this Act, the McDowell Cancer Network, Inc. and the James Graham Brown Cancer Center shall jointly develop and submit to the cabinet for human resources and may periodically update a standardized written summary, in layman's language and in language understood by the patient, of the advantages, disadvantages, risks and descriptions of all medically efficacious and viable alternatives for the treatment of breast cancer.

(2) The cabinet for human resources, within ninety (90) days of receipt of the summary, shall print and make available to all licensed physicians in the Commonwealth sufficient copies of the standardized written summary for distribution by such physicians to their patients.

(3) Upon receipt of the summary, any physician licensed under the laws of the Commonwealth who treats a patient for any form of breast cancer shall provide the patient with a standardized written summary, as provided under this section, informing the patient of medically efficacious and viable alternative methods of treatment for breast cancer which may include surgical, radiological or chemotherapeutic treatment or combinations thereof. The failure of any licensed physician to provide the patient with the standardized written summary shall constitute unprofessional conduct under KRS 311.595(8).

The Committee Substitute to **HB 609** is as follows:

HB 609, AN ACT relating to cancer.

WHEREAS, much anxiety and fear about breast cancer is based on misinformation; and

WHEREAS, the general assembly finds that persons with breast cancer have the right to receive all information available about the medical treatment of the disease; and

WHEREAS, the supplying of standardized information about alternatives in the treatment of breast cancer aids the cancer patient in thoroughly discussing with the physician the treatment of the disease;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No later than one (1) year after the effective date of this Act, the McDowell Cancer Network, Inc. and the James Graham Brown Cancer Center shall jointly develop and submit to the cabinet for human resources and may periodically update a standardized written summary, in layman's language and in language understood by the patient, of the advantages, disadvantages, risks and descriptions of all medically efficacious and viable alternatives for the treatment of breast cancer.

(2) The cabinet for human resources, within ninety (90) days of receipt of the summary, shall print and make available to all licensed physicians in the Commonwealth sufficient copies of the standardized written summary for distribution by such physicians to their patients.

(3) Upon receipt of the summary, any physician licensed under the laws of the Commonwealth who treats a patient for any form of breast cancer shall provide the patient with a standardized written summary, as provided under this section, informing the patient of medically efficacious and viable alternative methods of treatment for breast cancer which may include surgical, radiological or chemotherapeutic treatment or combinations thereof.

The Committee on Labor and Industry reported **HB 271**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 271, AN ACT relating to an employe's right-to-know about toxic chemicals in the workplace.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Toxic substance" means any substance which is listed in the latest printed edition of the National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances.

(2) "Workplace" means any location away from the home, permanent or temporary, where any employe performs any work-related duty in the course of his employment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Every employer shall post a sign in every workplace at the location or locations where notices to employes are normally posted, to inform employes that they have a right to information from their employer regarding the toxic effects of these substances and the circumstances under which these effects are produced.

(2) Until such time as the commissioner determines that there is a federal program in effect which will guarantee substantially similar protection to employes, each employer shall give in writing to each employe, and if so requested their representative, information relating to all toxic effects and the circumstances under which these effects are produced from the toxic substances to which the employe may be exposed in the course and scope of employment.

(3) Compliance with subsection (2) of this section may be achieved by annually giving each employe a single document containing the information required by this section.

(4) It shall be the responsibility of the employer to obtain information relating to toxic substances from the manufacturer, the Federal Environmental Protection Agency's Chemical Substances Information Network, and the Health Hazard Evaluation Program of the National Institute of Occupational Health.

SECTION 3. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the limitations set forth in Section 4 of this Act, any manufacturer, importer, producer or formulator of any toxic substance shipped, transported or sold for any use within the Commonwealth shall maintain the following information:

(a) The name or names of the toxic substance, including the generic or chemical name;

(b) The trade name of the chemical and any other commonly used name;

(c) The level at which exposure to the substance is determined to be hazardous, if known;

(d) The acute and chronic effects of exposure at hazardous levels;

(e) The symptoms of such effects;

(f) The potential for flammability, explosion and reactivity of such substance;

(g) Appropriate emergency treatment;

(h) Proper conditions for safe use and exposure to the toxic substance; and

(i) Procedures for cleanup of leaks and spills of toxic substances.

(2) The information required in subsection (1) of this section shall be updated annually and shall be provided, upon request, to employers required to comply with the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

Upon receipt of a request for information required to be maintained under this Act, the employer shall provide the requested information in writing within seventy-two (72) hours, excluding weekends and public holidays. If the information is not provided, the employe may elect not to work with the toxic substance until the information is made available.

SECTION 5. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the provision contained in KRS 338.171, when a manufacturer, producer, formulator or employer considers the identity of or other information concerning a toxic chemical substance to be a protectable trade secret or a proprietary process whose disclosure would compromise his competitive advantage, he may register this information with the commissioner. The commissioner shall consider trade secret information secret and confidential.

(2) Manufacturers, producers, formulators and employers who register a substance, process or

product with the commissioner must inform in writing, employers who request information relating to such substance, and employes and their representatives, that such substance or process constitutes a registered trade secret or proprietary process and that information regarding the toxic effects of such substance is only available without identifying information.

SECTION 6. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Every employer shall institute an education and training program for employes routinely exposed to toxic substances.

(2) The education and training program shall commence prior to an employe's initial employment assignment and shall be repeated at least annually thereafter. Additional instruction shall be provided whenever the potential for exposure to toxic substances is allowed.

(3) The education and training program shall include, but need not be limited to, the following:

(a) The location of toxic substances to which the employe may be exposed;

(b) The properties of toxic substances to which employes may be exposed;

(c) The name or names of the toxic substances, including the generic or chemical name to which employes may be exposed;

(d) The trade name and any other commonly used name of the toxic substances to which employes may be exposed;

(e) The acute and chronic effects of exposure at hazardous levels;

(f) The symptoms of effects of exposure at hazardous levels;

(g) The potential for flammability, explosion and reactivity of such substance;

(h) Appropriate emergency treatment;

(i) Proper conditions for safe use and exposure to such toxic substance;

(j) Procedures for cleanup of leaks and spills of such toxic substance; and

(k) The level at which exposure to such toxic substance is hazardous and the method of testing for same has been published.

SECTION 7. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

Employers, subject to the provisions of this Act, shall keep a record of the name and address of every employe who handles or uses toxic substances, all requests for information regarding toxic substance, the dates of such requests for information and the responses to the requests. Employe exposure records and request for information shall be maintained by the employer for a period of five (5) years following the departure of each employe from the employer's establishment.

SECTION 8. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Employes or their representatives may request in writing from employers and shall receive all information relating to toxic substances as required in this Act.

(2) No employer shall discharge, or cause to be discharged, or otherwise discipline, or in any manner discriminate against any employe because such employe has filed a complaint or has instituted, or caused to be instituted, any proceeding under or related to the provisions of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

This Act shall be effective January 1, 1985.

The Committee Substitute to **HB 271** is as follows:

AN ACT relating to an employe's right-to-know about toxic chemicals in the workplace.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Hazardous substance" means any substance:

(a) Which is listed in the latest edition of the American Conference of Governmental Industrial Hygienists' Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment; or

(b) Which is listed in 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration; or

(c) Which is a mixture that contains one percent (1%) or greater (by weight or volume) of any

hazardous substances as defined in paragraphs (a), (b), (e) and (f) of this subsection. However, if a mixture has been tested as a whole to determine its toxicity, the results of such testing shall be used to determine whether the mixture is hazardous. Except that any mixture which contains point one percent (0.1%) or greater of any carcinogen as defined in subsection (2) of this section shall be a hazardous substance for purposes of this Act; or

(d) Which is a carcinogen; or

(e) Which is a health hazard or physical hazard as defined in this section; or

(f) Which is determined by the commissioner to present a significant risk of acute or chronic personal injury or illness in the workplace. In determining whether a substance is hazardous for purposes of this Act, the commissioner shall apply the criteria contained in the Appendices of the federal Hazard Communication Standard (29 CFR 1910.1200) and any other available scientific evidence which substantially indicates a substance or mixture of substances is hazardous.

(g) However, for purposes of this Act, hazardous substance shall not include any substance which is covered by any other state or federal rule, regulation or statute, if the commissioner determines that the rule, regulation, or statute provides substantially similar or greater protection for the employe.

(2) "Carcinogen" means any substance which:

(a) Has been evaluated by the International Agency for Research on Cancer, and found to be a carcinogen or potential carcinogen; or

(b) Is listed as a carcinogen or potential carcinogen in the latest edition of the Annual Report on Carcinogens by the National Toxicology Program; or

(c) Is regulated by the Occupational Safety and Health Administration as a carcinogen.

(3) "Work area" means a room or defined space in a workplace where hazardous substances are produced or used, and where employes are present.

(4) "Workplace" means any establishment at one (1) geographical location containing one (1) or more work areas.

(5) "Common name" means any designation or identification such as code name, code number, trade name, brand name or generic names used to identify a chemical other than by its chemical name.

(6) "Chemical name" means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstract Service rules of nomenclature, or a name which will clearly identify the substance for the purpose of conducting a hazard evaluation.

(7) "Exposed or exposure" means that an employe is subjected to a hazardous substance in the course of employment through any route of entry and includes potential exposure.

(8) "Trade secret" means any confidential formula, pattern, process, device, information or compilation of information (including chemical name or other unique chemical identifier) that is used in an employer's business and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it.

(9) "Material safety data sheet (MSDS)" means written or printed material concerning a hazardous substance which is prepared in accordance with and pursuant to Section 5 of this Act.

(10) "Container" means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous substance. For purposes of this Act, pipes and piping systems are not considered to be containers.

(11) "Mixture" means any combination of two (2) or more substances if the combination is not, in whole or in part, the result of a chemical reaction.

(12) "Label" means any written, printed or graphic material displayed on or affixed to containers of hazardous substances in accordance with and pursuant to Section 3 of this Act.

(13) "Use" means to package, handle, react, or transfer.

(14) "Immediate use" means that the hazardous substance will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

(15) "Responsible party" means someone who can provide additional information on the hazardous substance and appropriate emergency procedures, if necessary.

(16) "Article" means a manufactured item:

(a) Which is formed to specific shape or design during manufacture;

(b) Which has end use function dependent in whole or in part upon its shape or design during end use; and

(c) Which does not release or otherwise result in exposure to, a hazardous substance under normal conditions of use.

(17) "Health hazard" means a substance for which there is statistically significant evidence based on at least one (1) study conducted in accordance with established scientific principles that acute or chronic personal injury or illness may occur in exposed employes. The term "health hazard" includes substances which are toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins,

nethrotoxins, neurotoxins, agents which act on the hemotopoietic system, and agents which damage the lungs, skins, eyes, or mucous membranes. Appendix A of the federal Hazard Communication Standard (29 CFR 1910.1200) provides further definitions and explanations of the scope of health hazards covered by this definition.

(18) "Physical hazard" means a substance for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water-reactive as such terms are defined in the federal Hazard Communication Standard (29 CFR 1910.1200).

(19) "Hazard warning" means any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which conveys the hazards of the substance in the container.

(20) "OSHA" means the federal Occupational Safety and Health Administration.

(21) "Kentucky OSH Program" means the Kentucky occupational safety and health program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) This Act applies to any manufacturer, distributor or importer of any hazardous substance used or produced in this Commonwealth and covered by this Act, and any employer, as defined in this chapter, who uses any hazardous substance covered by this Act in the workplace except as provided in subsection (2) and (3) of this section.

(2) This Act does not apply to laboratories, except that employers shall:

(a) Ensure that labels on incoming containers of hazardous substances are not removed or defaced;

(b) Maintain any material safety data sheets that are received with incoming shipments of hazardous substances, and ensure that they are readily accessible to laboratory employes; and

(c) Ensure that laboratory employes are apprised of the hazards of the substances in their workplace in accordance with Section 4 of this Act.

(3) This Act does not apply to:

(a) Tobacco and tobacco products;

(b) Wood or wood products;

(c) Articles;

(d) Consumer products or food stuffs packaged for distribution to, and intended for use by, the general public. This includes any product used by an employer in the same physical form, approximate amount, concentration and manner as used by consumers, and to which, in the employer's knowledge, employe exposure is not significantly greater than that of the consumer in foreseeable consumer uses of the product; and

(e) The wholesale and retail sale of automotive, aviation and heating fuel; and

(f) Any hazardous waste as such term is defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. sec. 6901 et seq.), when subject to regulations issued under that act by the Environmental Protection Agency.

SECTION 3. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Chemical manufacturers, distributors, and importers shall ensure that each container of hazardous substances leaving the workplace is labeled, tagged or marked with the following information:

(a) Identity of substance;

(b) Appropriate hazard warnings; and

(c) Name and address of the chemical manufacturer, importer or other responsible party.

(2) Chemical manufacturers, distributors or importers shall ensure that each container of hazardous substances leaving the workplace is labeled, tagged or marked in accordance with this section in a manner which does not conflict with the requirements of the Hazardous Materials Transportation Act (18 U.S.C. sec. 1801 et seq.) and regulations issued under that act by the U.S. Department of Transportation.

(3) If a hazardous substance is regulated by the Occupational Safety and Health Administration in a substance specific health standard, the chemical manufacturer, distributor, importer or employer shall ensure that the labels or other forms of warning used are in accordance with the requirements of that standard.

(4) Except as provided in subsections (5) and (6) of this section, the employer shall ensure that each container of hazardous substances used in the workplace is labeled, tagged or marked with the following information:

(a) Identity of the hazardous substance contained therein; and

(b) Appropriate hazard warnings.

(5) The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers, to which it is applicable and conveys the information required by subsection (4) of this section. The written materials shall be readily accessible to the employes in their work area throughout each work shift.

(6) The employer is not required to label portable containers into which hazardous substances are

transferred from labeled containers and which are intended only for the immediate use of the employe who performs the transfer.

(7) The employer shall not remove or deface existing labels on incoming containers of hazardous substances unless the container is immediately marked with the required information.

(8) The employer shall ensure that labels or other forms of warning are legible, in English, and prominently displayed on the container or readily available in the work area throughout each work shift. Employers having employes who speak other languages may add the information in their language to the material presented as long as the information is presented in English as well.

(9) The chemical manufacturer, distributor, importer or employer need not affix new labels to comply with this section if existing labels already convey the required information.

(10) This Act does not require additional labeling of any of the following:

(a) Any pesticide as such term is defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. sec. 136 et seq.), when subject to the labeling requirements of that act and labeling regulations issued under the act by the Environmental Protection Agency;

(b) Any food, food additive, color additive, drug, or cosmetic, including materials intended for use as ingredients in such products (e.g. flavors and fragrances), as such terms are defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. sec. 301 et seq.) and regulations issued under that act, when they are subject to the labeling requirements of that act and labeling regulations issued under that act by the Food and Drug Administration;

(c) Any distilled spirits (beverage alcohols, wine, or malt beverage intended for nonindustrial use), as such terms are defined in the Federal Alcohol Administration Act (27 U.S.C. sec. 201 et seq.) and regulations issued under that act, when subject to the labeling requirements of that act and labeling regulations issued under that act by the Bureau of Alcohol, Tobacco, and Firearms; and

(d) Any consumer product or hazardous substance as those terms are defined in the Consumer Product Safety Act (15 U.S.C. sec. 2051 et seq.) and Federal Hazardous Substance Act (15 U.S.C. Sec. 1261 et seq.) respectively, when subject to a consumer product safety standard or labeling requirement of those acts or regulations issued under those acts by the Consumer Product Safety Commission.

(11) The Kentucky OSH board shall promulgate any regulations necessary to ensure that the labeling requirements of this section do not unduly burden interstate commerce in a manner which would conflict with the federal Hazard Communication Standard (29 CFR 1910.1200).

SECTION 4. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Every employer shall provide an information and training program for employes exposed to hazardous substances.

(2) The information and training program shall be provided on or before the first day that the employe begins working in a work area where he will be exposed to hazardous substances and whenever a new hazardous substance is introduced into the work area. An information and training program shall be repeated at least annually thereafter.

(3) The information and training program shall include, but need not be limited to, the following:

(a) The disclosures of any operations in an employe's work area where hazardous substances are present;

(b) The location and availability of the written hazard communication program as described in Section 6 of this Act, including the required lists of hazardous substances, and material safety data sheets required by this Act;

(c) Methods and observations that may be used to detect the presence or release of a hazardous substance in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous substances when being released);

(d) The physical and health hazards of the hazardous substances in the work area;

(e) The measures employes can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employes from exposure to hazardous substances, such as appropriate work practices, emergency procedures, and personal protective equipment to be used; and

(f) The details of the hazard communication program developed by the employer, including an explanation of the requirements of this Act, the labeling system and the material safety data sheet, and how employes can obtain and use the appropriate hazard information.

SECTION 5. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Chemical manufacturers, importers, and distributors, shall obtain or develop a material safety data sheet for each hazardous substance they produce or import. Employers shall have a material safety data sheet for each hazardous substance which they use.

(2) Each material safety data sheet shall be in English and shall contain at least the following information:

(a) The identity used on the label, and, except as provided for in Section 7 of this Act on trade

secrets:

1. If the hazardous substance is a single substance, its chemical and common name;

2. If the hazardous substance is a mixture which has been tested as a whole to determine its hazards, the chemical and common name of the ingredients which contribute to these known hazards, and the common name of the mixture itself; or,

3. If the hazardous substance is a mixture which has not been tested as a whole:

a. The chemical and common name of all ingredients which have been determined to be health hazards, and which comprise one percent (1%) or greater of the composition, except that chemicals identified as carcinogens under Section 1 of this Act shall be listed if the concentrations are point one percent (0.1%) or greater; and,

b. The chemical and common name of all ingredients which have been determined to present a physical hazard when present in the mixture;

(b) Physical and chemical characteristics of the hazardous substance (such as vapor pressure, flash point);

(c) The physical hazards of the hazardous substance, including the potential for fire, explosion, and reactivity;

(d) The health hazards of the hazardous substance including signs and symptoms of exposure, and any medical conditions which are generally recognized as being aggravated by exposure to the substance;

(e) The primary route of entry;

(f) The OSHA permissible exposure limit, American Conference of Governmental Industrial Hygienists' Threshold Limit Value, and any other exposure limit used or recommended by the chemical manufacturer, distributor or importer preparing the material safety data sheet, where available;

(g) Whether the hazardous substance is listed in the latest edition of the National Toxicology Program (NTP) Annual Report on Carcinogens or has been found to be a potential carcinogen in the latest edition of International Agency for Research on Cancer (IARC) Monographs, or by the Occupational Safety and Health Administration program;

(h) Any generally applicable precautions for safe handling and use which are known to the chemical manufacturer, distributor or importer preparing the material safety data sheet, including appropriate hygienic practices, protective measures during repair and maintenance of contaminated equipment, and procedures for clean-up of spills and leaks;

(i) Any generally applicable control measures which are known to the chemical manufacturer, distributor or importer preparing the material safety data sheet, such as appropriate engineering controls, work practices, or personal protective equipment;

(j) Emergency and first aid procedures;

(k) The date of preparation of the material safety data sheet or the last change to it; and

(l) The name, address and telephone number of the chemical manufacturer, distributor, importer, employer or other responsible party preparing or distributing the material safety data sheet, who can provide additional information on the hazardous substance and appropriate emergency procedures, if necessary.

(3) If no relevant information is found for any given category on the material safety data sheet, the chemical manufacturer, distributor or importer preparing the material safety data sheet shall mark it to indicate that no applicable information was found.

(4) Where complex mixtures have similar hazards and contents (i.e. the chemical ingredients are essentially the same, but the specific composition varies from mixture to mixture), the chemical manufacturer, distributor, importer or employer may prepare one (1) material safety data sheet to apply to all of these similar mixtures.

(5) The chemical manufacturer, distributor or importer preparing the material safety data sheet shall ensure that the information recorded accurately reflects the scientific evidence used in making the hazard determination. If the chemical manufacturer, distributor or importer becomes newly aware of significant information regarding the hazards of a substance, or ways to protect against the hazards, this new information shall be added to the material safety data sheet within three (3) months. If the hazardous substance is not currently being produced or imported the chemical manufacturer, distributor or importer shall add the information to the material safety data sheet before the hazardous substance is introduced into the workplace again.

(6) Chemical manufacturers or importers shall ensure that distributors and purchasers of hazardous substances are provided an appropriate material safety data sheet with their initial shipment, and with the first shipment after a material safety data sheet is updated. The chemical manufacturer, distributor, or importer shall either provide material safety data sheets with the shipped containers or send them to the purchaser prior to or at the time of the shipment. If the material safety data sheet is not provided with the shipment, the purchaser shall obtain one (1) from the chemical manufacturer, distributor or importer as soon as possible.

(7) Distributors shall ensure that material safety data sheets and updated information, are provided to other distributors and purchasers of hazardous substances.

(8) The employer shall maintain copies of the required material safety data sheets for each hazardous substance in the workplace, and shall ensure that they are readily accessible during each work shift to employes when they are in their work area.

(9) Material safety data sheets may be kept in any form including operating procedures, and may be designed to cover groups of hazardous substances in a work area where it may be more appropriate to address the hazards of a process rather than individual hazardous substances. However, the employer shall ensure that in all cases the required information is provided for each hazardous substance, and is readily accessible during each work shift to employes when they are in their work area.

(10) Material safety data sheets shall also be made readily available, upon request to the commissioner, in accordance with the requirements of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) Employers shall develop and implement a written hazard communication program for their workplaces which at least describes how the criteria specified in Sections 3, 4, and 5 of this Act for labels and other other forms of warning, material safety data sheets, and employe information and training will be met, and which also includes the following:

(a) A list of the hazardous substances known to be present using an identity that is referenced on the appropriate material safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas);

(b) The methods the employer will use to inform employes of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with substances contained in unlabeled pipes in their work areas; and

(c) The methods the employer will use to inform any contractor employers with employes working in the employer's workplace of the hazardous substances their employes may be exposed to while performing their work, and any suggestions for appropriate protective measures.

(2) The employer may rely on an existing hazard communication program to comply with these requirements, provided that it meets the criteria established in this section.

(3) The employer shall make the written hazard communication program available upon request, to employes, their designated representative and the commissioner.

SECTION 7. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

(1) The chemical manufacturer, importer or employer may withhold the specific chemical identity, including the chemical name and other specific identification of a hazardous substance, from the material safety data sheet, provided that:

(a) The claim that the information withheld is a trade secret can be supported;

(b) Information contained in the material safety data sheet concerning the properties and effects of the hazardous substances is disclosed;

(c) The material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and

(d) The specific chemical identity is made available to health professionals, in accordance with the applicable provisions of this section.

(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a hazardous substance is necessary for emergency or first-aid treatment, the chemical manufacturer, importer, or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer, distributor, importer, or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subsections (3) and (4) of this section, as soon as circumstances permit.

(3) In non-emergency situations, a chemical manufacturer, distributor, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subsection (1) of this section, to a health professional (i.e. physician, industrial hygienist, toxicologist, or epidemiologist) providing medical or other occupational health services to exposed employes if:

(a) The request is in writing;

(b) The request describes with reasonable detail one (1) or more of the following occupational health needs for the information:

1. *To assess the hazards of the substances to which employes will be exposed;*
2. *To conduct or assess sampling of the workplace atmosphere to determine employe exposure levels;*
3. *To conduct pre-assignment or periodic medical surveillance of exposed employes;*
4. *To provide medical treatment to exposed employes;*
5. *To select or assess appropriate personal protective equipment for exposed employes;*
6. *To design or assess engineering controls or other protective measures for exposed employes; and*

7. To conduct studies to determine the health effects of exposure;

(c) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional to provide the occupational health services described in paragraph (b) of this subsection:

1. The properties and effects of the hazardous substance;

2. Measures for controlling workers' exposure to the hazardous substance;

3. Methods of monitoring and analyzing worker exposure to the hazardous substance; and

4. Methods of diagnosing and treating harmful exposures to the hazardous substance;

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

(e) The health professional, and the employer or contractor of the health professional's services (i.e., downstream employer, labor organization, or individual employer), agree in a written confidentiality agreement that the health professional will not use the trade secret information for any purpose other than the health needs asserted and agreed not to release the information under any circumstances other than to the Kentucky OSH program, as provided in subsection (6) of this section, except as authorized by the terms of the agreement or by the chemical manufacturer, distributor, importer, or employer.

(4) The confidentiality agreement authorized by subsection (3)(d) of this section:

(a) May restrict the use of the information to the health purposes indicated in the written statement of need;

(b) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable pre-estimate of likely damages; and

(c) May not include requirements for the posting of a penalty bond.

(5) Nothing in this Act is meant to preclude the parties from pursuing non-contractual remedies to the extent permitted by law.

(6) If the health professional receiving the trade secret information decides that there is a need to disclose it to the Kentucky OSH program, the chemical manufacturer, distributor, importer, or employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

(7) If the chemical manufacturer, distributor, importer, or employer denies a written request for disclosure of a specific chemical identity, the denial must:

(a) Be provided to the health professional within thirty (30) days of the request;

(b) Be in writing;

(c) Include evidence to support the claim that the specific chemical identity is a trade secret;

(d) State the specific reasons why the request is being denied; and

(e) Explain in detail how alternate information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(8) The health professional whose request for information is denied under subsection (3) of this section may refer the request and the written denial of the request to Kentucky OSH program for consideration.

(9) When a health professional refers the denial to the Kentucky OSH program under subsection (8) of this section, the Kentucky OSH program shall consider the evidence to determine if:

(a) The chemical manufacturer, distributor, importer, or employer has supported the claim that the specific chemical identity is a trade secret;

(b) The health professional has supported the claim that there is a medical or occupational health need for the information; and

(c) The health professional has demonstrated adequate means to protect the confidentiality.

(10) (a) If the Kentucky OSH program determines that the specific chemical identity requested under subsection (3) of this section is not a bona fide trade secret, or that it is a trade secret but the requesting health professional has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer, distributor, importer, or employer will be subject to citation by Kentucky OSH program.

(b) If a chemical manufacturer, distributor, importer or employer demonstrates to the Kentucky OSH program that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the commissioner may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriate to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer, distributor, importer, or employer.

(11) If, following the issuance of a citation and any protective orders, the chemical manufacturer, distributor, importer, or employer continues to withhold the information, the matter is referrable to the Kentucky occupational safety and health review commission for enforcement of the citation. In accordance

with department regulations, the commissioner may review the citation and supporting documentation in camera or issue appropriate protective orders.

(12) Notwithstanding the existence of a trade secret claim, a chemical manufacturer, distributor, importer, or employer shall, upon request, disclose to the commissioner any information which this section requires the chemical manufacturer, importer, or employer to make available. Where there is a trade secret claim, such claim shall be made no later than at the time the information is provided to the commissioner so that suitable determinations of trade secret status can be made and the necessary protections can be implemented.

(13) Nothing in this section shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information which is a trade secret.

SECTION 8. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

In the event that any provision of this Act is determined by the U.S. Department of Labor not to be at least as effective as the federal Hazard Communication Standard (29 CFR 1910.1200), the federal standard shall prevail with regard to that matter.

Section 9. KRS 338.171 is amended to read as follows:

Except as provided in Section 7 of this Act, all information obtained by the commissioner in connection with any inspection or proceeding under this chapter which might reveal a trade secret shall be considered confidential except that such information may be disclosed to those persons concerned with carrying out this chapter or when relevant in any proceedings under this chapter. In any such proceedings, the commissioner, review commission or courts shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

Section 10. KRS 338.181 is amended to read as follows:

The Kentucky department of labor is empowered to administer the provisions of this chapter to employers, employes, [~~and~~] places of employment, *and persons covered by Section 2 of this Act* under the jurisdiction of the United States government pursuant to any agreement between the Commonwealth and the United States government. Pursuant to such agreement, the department of labor is empowered to make employer reports and data available to the United States government.

SECTION 11. A NEW SECTION OF KRS CHAPTER 338 IS CREATED TO READ AS FOLLOWS:

All entities covered by this Act shall be in compliance with this Act within the following time periods:

(1) Chemical manufacturers and importers covered by this Act shall label containers of hazardous substances leaving their workplaces, and provide material safety data sheets with initial shipments by November 25, 1985.

(2) Distributors covered by this Act shall be in compliance with all sections of this Act applicable to them by November 25, 1985.

(3) All employers covered by this Act shall be in compliance with all sections of this Act by May 25, 1986, including initial training for all current employes.

The Committee Title Amendment to **HB 271** is as follows:

Amend printed copy of **HB 271**, by amending the title to read as follows: "AN ACT relating to hazardous substances used in the workplace."

The Committee on Transportation reported **HB 430**, with Committee Substitute attached thereto, **HB 539**, and **SB 16** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 430, AN ACT relating to boats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

The department of vehicle regulation is directed to develop, in cooperation with the county clerks, circuit court clerks, and the departments of revenue and state police a combined boat transaction record form to permit, to the extent feasible, the recording of all information pertinent to the registration, titling or taxation or transfer of title of a boat. The form shall be utilized by all applicable parties in connection with the titling of a boat in this state. The form shall have at least the following characteristics:

(1) An appropriate heading or title;

(2) A statement that the information required by the first or original of the form must be legibly printed in dark blue or black, permanent photo reproducing ink or indelible pencil or typed in black, except as to signatures, which shall be originally signed in dark blue or black photo reproducing ink;

(3) A statement, prominently printed in boldface type, that any person who knowingly enters, or attests to the entry of, false or erroneous information upon the form shall be subject to the penalties of forgery in the second degree;

(4) An owner or buyer section, containing space for the owner or buyer's full legal name, mailing address, social security account number, or, if the owner is other than a person, its state or federal employer identification number and telephone number including telephone area code;

(5) A boat description section with space for the make of the boat, hull identification number, if any, length, beam, model and horsepower of motor, maximum capacity, type of hull material and whether the fuel is gasoline, diesel or other;

(6) A section with spaces for recording prior registration and title information to include the previous owner's name, the state in which a boat was last registered or titled, and the tile number, registration number and year;

(7) A transferor's lien declaration section, containing the necessary means to obtain the following information: "I ----------------- warrant that the boat described above is not subject to an undetermined lien in the name of the prior owner.";

(8) A tax computation section for boats, consistent with the requirements of the department of revenue;

(9) An owner or transferee's lien declaration section, containing the necessary means to obtain the following information: "I --------------------, (owner, transferee) have not applied for a loan in connection with the boat described above, and do not expect to do so within thirty (30) days of submission of this application to the county clerk."; and

(10) A lien information section containing the necessary elements to obtain the following information:

(a) This boat shall be subject to lien or liens, not exceeding two (2), in the name of the applicant, owner or transferee;

(b) Spaces for recording as to a first and second lien, the lienholder's name and mailing address, including zip code, and county in which the financing statement is filed; and

(c) A statement as to whether a loan has been or will be applied for in connection with the boat, and whether a financing statement is expected to be filed within thirty (30) days of submission of this application to the county clerk.

(11) County clerk's section, with words and spaces as appropriate, requiring the county clerk to:

(a) Enter the type, name of the issuer, identifying number and date of issue, of the document supporting the application, together with its document control number (as distinguished from title number) and the taxes and fees to be collected to permit audit of fee collections; and

(b) Words requiring, and spaces for entry of, the name of the county in which the application was received together with the date and time of receipt, and space for the signature of the clerk or deputy, which shall be preceded by the words "I certify under penalty of forgery in the second degree that I have reviewed this application and the documents supporting it; all supporting documents indicated hereon are present and consistent in pertinent part with this application, that I received the application on the date and at the time indicated hereon, and that I collected the fees as indicated." ---------------------- (signature of clerk or deputy clerk, date, county); and

(12) The form may contain or require any other information deemed appropriate by the department of vehicle regulation in cooperation with the department of revenue and state police, and may be organized as efficiency dictates.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Application for a first certificate of title for a boat shall be made by the owner to the county clerk of the county in which he resides. The application for title shall be consistent with the procedures described in this chapter. The application for certificate of title for a boat shall be accompanied by:

(1) A bill of sale, if the application is for title of a new motorboat; or

(2) The owner's registration receipt, if the application is for a first time title or updated title for a boat currently registered in this state; or

(3) The bill of sale and previous registration receipt or title document, if the boat was last titled or registered in another state; and

(4) Proof of payment of state registration fees to the circuit court clerk.

Section 3. KRS 186A.010 is amended to read as follows:

(1) An automated motor vehicle and trailer registration and titling system *and a boat titling system* shall be developed and implemented as expeditiously as practicable in all counties of the Commonwealth. The automated motor vehicle and trailer registration system shall be designed to enable Kentucky's county clerks

to produce motor vehicle and trailer certificates of registration in their offices, and certificates of title in Frankfort, by automated means utilizing telecommunication terminals and associated devices supplied by the Commonwealth, to inhibit registration and transfer of stolen motor vehicles or trailers, to improve the capability of detecting and recovering such vehicles, to ensure development of a common vehicle information data base to improve efficiency in auditing motor vehicle usage tax, license fee collections, and in collecting personal property tax to provide information to the traffic record system, and to provide improved security interest protection to potential creditors throughout Kentucky while simultaneously reducing the number of forms that must be processed and stored each year in Kentucky.

(2) The transportation cabinet is hereby directed to, as expeditiously as practicable, develop an automated motor vehicle and trailer registration and titling system, *and a boat titling system* having, as a minimum, the capabilities or functions described in this chapter, and to acquire and assure the installation of such equipment or services as are necessary to enable the system as described in this chapter to be operated in all counties of the Commonwealth.

(3) All departments of state government affected by the system are hereby directed to cooperate with the transportation cabinet for purposes of assuring orderly implementation of this chapter.

Section 4. KRS 186A.095 is amended to read as follows:

(1) An owner of a vehicle for which a certificate of registration or title, and license plate must be obtained shall be allowed a fifteen (15) day grace period from the date on which he purchased a vehicle or brings a vehicle into the Commonwealth from another state, during which time the owner shall apply for and obtain a certificate of registration or title and a license plate in his name.

(2) An owner of a boat for which registration must be obtained shall be allowed a fifteen (15) day grace period from the date on which he purchased a boat or brings a boat into the Commonwealth from another state, during which time the owner shall apply for and obtain a certificate of title in his name, except that he is a resident of another state and possesses a current certificate of title from that state.

Section 5. KRS 186A.165 is amended to read as follows:

Not later than 3 p.m. on the next business day after an application for a first certificate of registration or title for a vehicle *or boat* is received by him, the county clerk shall prepare on forms supplied by the department of vehicle regulation, an application transmittal record.

(1) The clerk shall indicate thereon in the spaces provided, the name of his county, the date or time period the transmittal relates to and, in the order they are to be attached to the transmittal record, a notation for each application attached consisting of the applicant's last name and initials or if the applicant is other than an individual, the name commonly used by the applicant and any other information required upon the form as indicated thereon.

(2) The clerk shall ensure that the original of all applications noted on the transmittal, together with the original of all required supporting documents are attached to the transmittal record in the order shown thereon, and shall thereafter sign and date the original of the transmittal record as of the date the transmittal is being forwarded to Frankfort.

(3) The county clerk shall place the original of each application record, with the original of each application shown thereon, and its required supporting documents, together with the acknowledgment of the transmittal record, in the envelope or other container provided by the department of vehicle regulation and forward to the division of motor vehicle licensing in Frankfort.

Section 6. KRS 186A.170 is amended to read as follows:

(1) The department of vehicle regulation shall:

(a) Within five (5) working days following receipt by it of an application for a certificate of title in proper form, process the application and its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents, issue a certificate of title in the name of the owner and send it postpaid to such owner.

(b) The department of vehicle regulation shall provide by regulation, a procedure for direct delivery, as distinguished from delivery by mail, of a certificate of title to an owner or owner's agent, and may establish a fee deemed reasonable by it for such service.

(2) Upon receiving an application packet from a county clerk, the application receipt clerk of the department of vehicle regulation shall:

(a) Cause the date and time of receipt to be stamped on both the department's copy and the acknowledgment copy of the application transmittal record and accompanying documents;

(b) Cause at least duplicate sets of microfilm images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys; *and*

(c) Compare the application transmittal record with the documents accompanying it, and, if all applications shown upon the record are accompanying the record, endorse the department's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgment copy to the clerk who issued it.

(3) In the event there is a discrepancy between the application transmittal record and the application

attached to it, the department of vehicle regulation shall note the discrepancy upon the department's copy and the acknowledgment copy, and shall promptly contact the issuing clerk and resolve the discrepancy. After resolving the discrepancy, the department shall note the nature of the disposition of the discrepancy and endorse the respective copies and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk.

(4) After executing the acknowledgment of receipt of applications, the department of vehicle regulation shall carry out the following action with respect to each application:

(a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The department of vehicle regulation shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;

(b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;

(c) Assure that the vehicle identification number of the subject vehicle is apparently legitimate;

(d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the national crime information center (NCIC) computerized listings of vehicles reported stolen, unless NCIC is not operational and the department has official notification that it is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it;

(e) Compare the computer produced certificate of title for consistency with the owner's application and supporting documents.

(5) When the title application has been completed, and the application examiner at each significant stage has indicated, by placing his unique symbol upon the application in the space provided thereon, that an application has passed the required examinations, the application shall be examined by a title examination certifier.

(6) The title application certifier shall ensure that each application has received the required examinations as indicated by the presence of each required examiner's symbol. Upon satisfying himself that an application has passed the required examinations, the title examination certifier shall place his unique symbol together with the date upon the application.

(7) The department of vehicle regulation shall withhold issuance of a title, until its questions are resolved to its satisfaction, when it finds material discrepancies or has information giving probable cause to believe:

(a) That an applicant is not the lawful owner of a vehicle for which he seeks a title;

(b) His application is not in order;

(c) The documentation supporting an application is insufficient or fraudulent;

(d) The vehicle has an illegitimate vehicle identification number;

(e) The vehicle is stolen; or

(f) That the computer produced certificate of title is not consistent with the owner's application.

(8) When the department of vehicle regulation finds that a certificate of title should be issued for a vehicle *or boat*, the endorsement of the commissioner of the department of vehicle regulation shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the department of vehicle regulation has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. -------------- (signature), commissioner, department of vehicle regulation, Kentucky transportation cabinet.

(9) The department of vehicle regulation may omit the procedures described in paragraphs (4)(c) and (d) and (7)(d) of this section when reviewing an application for title of a boat.

Section 7. KRS 186A.175 is amended to read as follows:

(1) Each certificate of title issued by the department of vehicle regulation shall contain:

(a) The date of its issue;

(b) The name, social security account number or federal employer identification number and current mailing address of the owner, to include zip code;

(c) The names and addresses of any lienholders, not exceeding two (2);

(d) The title number;

(e) A description of the vehicle including the following data: year, make, model name, model number, vehicle identification number, type of body, number of cylinders, color or colors not exceeding one upper and one lower color, and if the vehicle is a truck, its gross weight, *or if the certificate of title is for a boat, the following data: make of boat, hull identification number, if any, length, beam, model and horsepower of motor, maximum capacity and type of hull material*;

(f) If last titled in another state, the name of the state and the title number;

(g) Forms for assignment and warranty of title by the owner, and for assignments and warranty of title by dealers;

(h) Any other information the department requires;

(2) A certificate of title issued by the department is prima facie evidence of the facts appearing on it.

Section 8. KRS 186A.190 is amended to read as follows:

(1) Financing statements relating to vehicles *or boats* required to be titled in Kentucky through the county clerk shall be filed in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the vehicle *or boat* is principally operated. Notwithstanding the existence of any filed financing statement relating to any vehicle *or boat* registered or titled in Kentucky, the sole means of determining priority of security interests in such vehicle *or boat* shall be the notation of the security interest on such vehicle's *or boat's* registration or title.

(2) Before ownership of a vehicle subject to a lien evidenced by a financing statement executed pursuant to KRS Chapter 355 may be transferred, the transferor shall obtain the release of the prior liens in his name against the vehicle *or boat* being transferred.

(3) No more than two (2) active financing statements as provided by KRS Chapter 355 may be recorded upon a certificate of title.

(4) In recording the filing of a financing statement upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was filed, its file number and the county in which the financing statement is on file.

(5) A copy of the application, certified by the county clerk, indicating the lien will be filed shall be forwarded to the lender.

Section 9. KRS 186A.195 is amended to read as follows:

(1) If a financing statement and the required fees accompany the application for first title of a vehicle *or boat* in the name of an owner, the county clerk shall enter the information required by KRS 186A.190(4) into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by KRS 186A.190(4). The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(2) If a financing statement and the required fees are not received at the time of application for first title of a vehicle *or boat* in the name of the owner due to owner's residency in another county, the county clerk shall enter into the automated vehicle informational system (AVIS) the name and address of the lienholder and the county where the lien is to be filed. The clerk shall indicate a title is not to be issued until the lien has been filed and fees paid in the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the financing statement and required fees, enter into the automated vehicle information system (AVIS) the date of lien filing and the file number thus enabling the system to produce the title in Frankfort.

Section 10. KRS 186A.200 is amended to read as follows:

(1) With respect to a vehicle *or boat*, previously titled in the name of its debtor, the secured party shall, within fifteen (15) days after execution of the security agreement, obtain the current certificate of title in the name of the debtor, with no more than one prior lien indicated thereon, and present it together with the financing statement and the required fees to the county clerk.

(2) For failure to present both the title and financing statement within the time prescribed by subsection (1) of this section, the secured party shall pay a penalty of two dollars ($2.00) to the county clerk as a prerequisite for noting the security interest on the title.

(3) The county clerk shall enter the information required by KRS 186A.190(4) into the automated system.

(4) The county clerk shall record upon the title in the appropriate section the information designated by KRS 186A.190(4).

Section 11. KRS 186A.210 is amended to read as follows:

Whenever a security interest to a vehicle *or boat* has been discharged as provided by KRS 186.045(5), the county clerk of a county that is operating under automated procedures shall, upon receiving a termination statement, promptly enter the record of termination into the automated system. The clerk shall then release the lien recorded upon the title in the manner directed by the department of vehicle regulation, and take such other action with respect to a termination as is directed by the department of vehicle regulation.

Section 12. KRS 186A.215 is amended to read as follows:

(1) If an owner transfers his interest in a vehicle *or boat*, he shall, at the time of the delivery of the vehicle *or boat*, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of title, and execute the applicable portions of the [~~vehicle~~] transaction record provided for by this chapter, and cause the [~~vehicle~~] transaction record with the certificate of title attached to be delivered to the transferee.

(2) Except as otherwise provided in this chapter, the transferee shall, promptly after delivery to him of the vehicle *or boat*, execute the application for a new certificate of title and registration by executing the applicable portions of the [~~vehicle~~] transaction record provided to him by his transferor.

(3) The [~~vehicle~~] transaction record with its supporting documentation attached shall promptly be

submitted to the county clerk as provided in KRS 186A.115, together with the required fees.

(4) This section shall not apply to a motor vehicle which has had the title surrendered to a county clerk or a hulk vehicle. Hulk vehicle shall mean a motor vehicle or part thereof that is:

(a) In a rusted, wrecked, discarded, worn out, extensively damaged, dismantled and mechanically inoperative condition; or

(b) Of an apparent value of less than two hundred dollars ($200).

Section 13. KRS 186A.225 is amended to read as follows:

The department of vehicle regulation shall establish appropriate forms and procedures to be utilized in connection with the transfer of a motor vehicle, *boat* or trailer by operation of law.

The Committee Substitute to **HB 430** is as follows:

HB 430, AN ACT relating to boats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) Financing statements relating to boats required to be registered in Kentucky by the circuit clerk shall be filed in the office of the circuit clerk of the county in which the debtor resides, or, if the debtor is a nonresident, in the office of the circuit clerk in which the boat is principally operated.

(2) (a) When a financing statement required by KRS Chapter 355 relating to any boat registered or required to be registered in Kentucky is presented to a circuit clerk for filing, the clerk shall also immediately note information required by the department relative thereto on the owner's copy of the certificate of registration, which the secured party must obtain and present to the circuit clerk, along with the financing statement within fifteen (15) days, exclusive of Sundays and holidays, after the execution of the security agreement. The clerk shall note the information on the clerk's copy of the certificate of registration and shall return the registration to the owner within five (5) days after making the notation.

(b) When a financing statement effecting a boat is presented to a circuit clerk for filing in any county other than the county in which the current receipt was issued, the circuit clerk shall, in addition to the other requirements of this section, mail a notice of the security interest, on a form furnished by the department, to the circuit clerk of the county in which the current registration was issued. Upon receipt of the notice, the circuit clerk shall attach it to the copy of the current receipt on file, maintained in numerical order, in the circuit clerk's office and note the security interest on the circuit clerk's copy of the receipt.

(3) For failure to present both the current receipt and financing statement within the time prescribed by subsection (2)(a) of this section, the secured party shall pay a penalty of two dollars ($2.00) to the circuit clerk as a prerequisite for noting the security interest on the current receipt.

(4) When a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of the statement to the debtor. The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment to the circuit clerk in whose office the financing statement is on file. Upon receipt of the assignment, the circuit clerk shall mark it as provided in subsection (2) of KRS 355.9-405 and attach it to the original financing statement.

(5) When a security interest has been discharged, other than by proceedings under KRS 355.9-501 through 355.9-507 or similar proceedings, the secured party shall, within fifteen (15) days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the circuit clerk of the county in which the financing statement is filed. Within five (5) days after the receipt of such documents, the circuit clerk shall note the filing in the index and, in addition, note on the clerk's copy of the current receipt maintained in his office in numerical order, in language prescribed by the cabinet that the termination statement has been filed. Upon presentation of the owner's copy of the receipt showing the security interest, the clerk shall also note on the receipt that the termination statement has been filed and place the seal of the circuit clerk thereon. The clerk shall return the owner's receipt to the owner. The circuit clerk shall remove the financing statement from his files, mark "terminated" thereon and send or deliver it to the secured party along with any continuation statement, statement of assignment or statement of release pertaining thereto. The circuit clerk shall then file the termination statement in the place from which the financing statement was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing the statement, at which time they may be destroyed. Once a security interest has been noted on the owner's copy of a certificate of number, no subsequent certificate of number may be issued by any circuit clerk free of the notation unless the owner's copy of the current receipt is presented to the clerk and it has noted thereon by the proper circuit clerk that the termination statement therefor has been filed. If this requirement is met, information relating to any security interest shown on the receipt as having been

terminated may be omitted from the receipt to be issued by the clerk.

(6) When any secured party repossesses a boat registered with a circuit clerk, for which a financing statement has been filed, and disposes of the boat pursuant to the provisions of KRS Chapter 355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the department and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for registering and transferring the boat to the circuit clerk. Upon receipt of such documents, the circuit clerk who issued the current receipt shall then omit from the certificate of number he issues any information relating to the security interest under which the boat was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such clerk's copy of the current receipt, which is superior to the one under which the boat was repossessed, must be shown on the receipt issued by the clerk, unless the prior secured party has terminated the security interest in the clerk's office or proof of termination is submitted in case the prior security interest was discharged in another clerk's office.

(7) When any boat brought into this state is required to be registered with a circuit clerk and the boat is then subject to a security interest in another state as shown by the out of state documents presented to the clerk, the circuit clerk is prohibited from registering the boat unless the owner obtains from the secured party a financing statement and presents it to the clerk along with all fees due. Such a financing statement must conform to the requirements of subsection (3) of KRS 355.9-402. The clerk shall note the out of state security interest on the new registration receipt and on the clerk's copy thereof.

(8) The circuit clerk is prohibited from filing any financing statement on any boat subject to the provisions of this section if a certificate of number therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a termination statement is filed for each discharged security interest and then a duplicate receipt must be obtained from the clerk by the owner of the boat.

(9) Security interests in boats sold to or owned by residents of other states must be perfected in the state of the nonresident and repossession of the boat must be taken pursuant to the laws of such state, unless the boat is principally operated in Kentucky and is properly registered herein under KRS 235.040 and the security interest is authorized to be filed with the circuit clerk under KRS 355.9-401. However, a security interest on any boat not required to be registered may be filed with the circuit clerk as otherwise permitted under KRS Chapter 355.

SECTION 2. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

When any financing statement lapses under the provisions of KRS 355.9-403, the circuit clerk of the county in whose office the financing statement is filed shall, upon presentation of the owner's certificate of number, note on the certificate that the financing statement has lapsed. Thereafter, any clerk may omit information regarding the lapsed financing statement from any new certificate of number for the boat.

Section 3. KRS 235.070 is amended to read as follows:

(1) Every person seeking a license or certificate of number or renewal for operation of a motorboat shall apply in person to the circuit court clerk of the county as provided in KRS 235.050 and make application on a form furnished by the department. The application shall contain the full name and signature, citizenship of applicant, date of birth, sex, present resident address, the make of the boat, hull identification number (HIN), if any, length, beam, model and horsepower of motor, maximum capacity, type of hull material, intended use of the boat, and whether the fuel is gasoline, diesel or other*; and space for recording not more than two (2) financing statements as provided by Section 1 of this Act*. The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of such facilities and shall state whether the storage container or treatment or disposal system for such facilities is a type approved by regulations promulgated pursuant to this chapter. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, refused, and if so, the date of and reason for cancellation, suspension, revocation or refusal and such other information as may be required.

(2) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a current certificate of number or renewal thereof.

(4) No certificate of number or renewal thereof for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to this chapter.

Section 4. KRS 235.100 is amended to read as follows:

Upon receipt of the clerk's report and copies of the applications, the department shall cause each of said applications to be entered upon the records of its office and shall issue to the applicant a certificate of number stating the number awarded to the motorboat, the name and address of the owner *spaces for the recording of two (2) financing statements*, and any other information prescribed by the department.

Section 5. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving

the certificate of number issued for that boat for the current period with a certificate of transfer indorsed thereon.

(2) It shall be the duty of the purchaser to record the indorsed certificate of number with the circuit court clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated except as provided in KRS 235.060, and to pay a transfer fee of one dollar ($1). The clerk thereupon shall forward the indorsed certificate of number and the transfer fee to the department. The clerk shall charge the purchaser a fee of fifty cents. The fees provided in this section shall be deposited in the manner provided for in KRS 30A.120.

(3) No circuit clerk shall transfer any interest in a boat which has a financing statement recording on the certificate of number. Termination of any financing statement shall be in accordance with Section 1(5) of this Act.

Section 6. This Act shall become effective on January 1, 1985.

HB 539, AN ACT relating to the licensing of motor vehicles.

WHEREAS, disaster and emergency services staff and volunteer rescue squad members offer citizens of the Commonwealth extraordinary aid in times of emergency; and

WHEREAS, these same persons offer training, planning, and other assistance in order to lessen the loss of life and property related to a disaster; and

WHEREAS, many of the expenses associated with this work are paid by the workers themselves.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Upon application to the county clerk of the county of his residence, any member of a local disaster and emergency services organization or volunteer rescue squad in the Commonwealth shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Disaster and Emergency Services," a registration number and an appropriate standardized insignia. Each application shall be accompanied by proof of current service as furnished by the county judge/executive, mayor, or disaster and emergency services coordinator, and the payment of a fee of twenty-five dollars ($25). Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service, and payment of an eleven dollar fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the disaster and emergency services license plate originally issued to the applicant.

(2) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the disaster and emergency services license plate and return it to the county clerk who shall reissue it for use on any other vehicle of the same class and category owned by the same applicant to whom a disaster and emergency services license plate was originally issued.

(3) Upon termination of membership as a member of the disaster and emergency services organization or volunteer rescue squad, an applicant to whom a disaster and emergency services license plate was issued under this section shall, within thirty (30) days, return said plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the disaster and emergency services license plates and in annually issuing a current year renewal decal to be affixed to the disaster and emergency services license plate, the county clerk shall receive from each applicant a fee of two dollars ($2). The same fee shall be charged for the reissuance of such license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) Registration under this section shall expire December 31 of each year.

(6) The secretary of the transportation cabinet shall provide such forms as may be necessary to carry out the purpose of this section.

SB 16, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, the term "charter bus certificate" means an irregular route certificate which authorizes the owner and holder thereof to transport a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge for the vehicle in accordance with the carrier's tariff lawfully on file with the department, have acquired the exclusive use of a passenger carrying motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the charter group after having left the place of origin.

(2) The contract provided for in subsection (1) of this section shall be entered into at least forty-eight (48) hours prior to the departure of the vehicle from its point of origin. All trips shall either originate or terminate within the county of the situs of the carrier's operation which shall be designated in said certificate.

(3) All carriers subject to the provisions of subsection (1) of this section shall be prohibited from providing service to any person who is not a member of the group having entered into the contract for carriage, and no pickup or delivery service may be allowed at any intermediate points.

(4) Any person, or his respective predecessor in interest, engaged as of December 31, 1983, in the transportation of chartered parties or groups of persons with a common purpose, pursuant to a valid certificate issued by the department, authorizing such activity as an additional incident of conducting a regular route, common carrier passenger service, except holders of taxicab, industrial bus and nonprofit bus certificates, shall, upon application, be entitled to the issuance of a charter bus certificate to thereafter authorize a continuation of the same operations. Upon petition by any interested party, or upon its own motion if it so desires, the department shall require a hearing upon any such application to establish an applicant's rights thereunder. Any subsequent change in situs, or additional situs to a charter bus certificate, shall be granted only upon application to the department in the same manner as other applications made under KRS 281.625. Provided, however, that nothing herein shall in any manner limit the area of this state over which previously authorized charter operations were or which may have been lawfully performed by existing carriers as of December 31, 1983.

(5) Notwithstanding any other requirement of this chapter, a holder of a charter bus certificate issued by the department or the interstate commerce commission shall not be required to pay any fee for registering or renewing said certificate provided a current copy of said certificate is filed with the department. However, all the requirements of KRS 281.655, 281.710 and 281.752 shall be satisfactorily complied with in order for the said holder of a charter bus certificate to be properly registered to operate in this Commonwealth.

Section 2. KRS 186.281 is amended to read as follows:

(1) On or before January 1 of each year, and as a condition precedent to the use of the highways, every motor carrier primarily engaged in transporting passengers for hire shall pay to the department of vehicle regulation for the privilege of using the highways an annual tax upon each motor vehicle so used, as follows: Four dollars and fifty cents ($4.50) for each regular seat for the first thirty-one (31) seats, and eight dollars ($8.00) for all seats in excess of thirty-one (31); except as provided in subsection (2) of this section, except that holders of nonprofit bus certificates shall be exempt from payment hereunder and except that taxicabs, city buses, industrial buses, suburban buses, and U-Drive-Its, shall pay the fees set forth in subsection *(3)*[~~(4)~~] of this section.

(2) (a) Any such motor carrier engaged in regular route interstate commerce or combined interstate and intrastate commerce and operating two (2) or more vehicles in Kentucky shall be required to pay only that portion of a tax imposed by subsection (1) of this section as the number of miles operated by such fleet of motor vehicles in Kentucky bears to the total miles operated by such fleet in any license year, or portion thereof.

(b) Any such motor carrier shall prior to January 1 of each license year, and as a prerequisite to operating on the highways of this state, obtain a permit from the department of vehicle regulation and at that time shall pay its estimated tax hereunder, as determined by the department of vehicle regulation's applicable regulations, and execute bond for any additional tax which might be due, with or without surety thereon, as the department of vehicle regulation in its discretion and according to its regulations might require.

(c) The department of vehicle regulation is authorized and directed to promulgate such rules and regulations as may be necessary to effectuate the apportionment of taxes prescribed in subsection (2) of this section. Such regulations shall provide that the estimate of such taxes for any license year shall be that proportion that would have been due in the prior license year and shall further provide for a license year-end accounting with a system of credit or deficiency assessment in any amount by which the estimate differs from the tax due hereunder.

(3) [~~Every motor carrier primarily engaged in transporting passengers for hire shall pay to the department of vehicle regulation for the privilege of using the highways, including deadhead mileage, a mileage tax as follows: Buses with one (1) to twenty (20) regular seats inclusive, none; buses with twenty-one (21) to twenty-nine (29) regular seats, inclusive, one-fourth (1/4) of a cent per mile; buses with thirty (30) to thirty-four (34) regular seats, inclusive, one-half (1/2) of a cent per mile; buses with thirty-five (35) to thirty-nine (39) regular seats, inclusive, three-fourths (3/4) of a cent per mile; buses with forty (40) regular seats or more, one cent per mile, except that holders of nonprofit bus certificates shall be exempt from payment hereunder and except that taxicabs, city buses, industrial buses, suburban buses and U-Drive-Its shall~~

~~pay the fees set forth in subsection (4) of this section, in addition to all fees set forth in KRS 186.050(1) if applicable.~~

~~(4)~~] Taxicabs, city, suburban and industrial buses, and U-Drive-Its, shall pay the following annual license fees:

Each taxicab	$3.00 per seat
Each city bus	5.00 per vehicle
Each industrial bus	2.50 per seat
Each suburban bus	5.00 per vehicle
Each U-Drive-It passenger car	2.50 per seat

(4)[~~(5)~~] All cities of the Commonwealth are hereby authorized to impose an annual license tax on all taxicabs certificated by the department of vehicle regulation for operation in said city, which license tax shall not exceed thirty dollars ($30.00) per taxicab.

(5) Notwithstanding any other provisions of this section, nonresident motor carriers engaged in transporting passengers for hire in irregular route interstate charter or special operations shall be exempt from all taxes and fees prescribed herein, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

Section 3. KRS 186.286 is amended to read as follows:

[~~(1) The mileage tax imposed by this chapter shall be paid monthly. To insure payment of the mileage tax, no certificate or permit or renewal thereof authorizing the transportation of persons for hire shall be issued until there has been filed with the department of vehicle regulation a bond in the amount estimated by said department to be three (3) times the amount due for one (1) month, or, in lieu thereof, cash of an equivalent amount.~~

~~(2)~~] If any person required to pay a seat tax under this chapter begins the operation of any motor vehicle covered by those sections after January 1 in any year, the tax shall be as many twelfths of the annual fee as there are unexpired months in the calendar year.

Section 4. KRS 138.665 is amended to read as follows:

(1) A license shall be required of each motor carrier or heavy equipment motor carrier subject to the provisions of KRS 138.660(1), (2) and (3) before he uses or continues to use the public highways of this state, except the department may issue a trip permit for each motor vehicle for a fee of twenty dollars ($20.00) for each permit.

(2) Application for a license or trip permit shall be made to the department and shall contain such information as the department deems necessary.

(3) Concurrently with the filing of an application for a license, the motor carrier or heavy equipment motor carrier shall file with the department a bond as required under KRS 138.670. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.670 to secure payment of taxes, penalties and interest imposed by KRS 138.655 to 138.725.

(4) The application in proper form having been accepted for filing, the bond having been accepted and approved and the other conditions and requirements of this section having been complied with, the department shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the department, or if the department is of the opinion that the person who makes the application does so as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not sufficient cause, the department may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The department shall keep and file all applications and bonds, with an alphabetical index thereof.

(8) Each holder of such license shall display such license number or other identification in the manner prescribed by the department.

(9) The provisions of this section shall not apply to a nonresident motor carrier engaged in transporting passengers for hire in irregular route interstate charter or special operations, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

Section 5. KRS 138.660 is amended to read as follows:

(1) Every motor carrier, *excluding charter bus operators registered pursuant to KRS Chapter 281,* shall pay a tax at the rate levied in KRS 138.220 and computed on the average wholesale price as defined in KRS 138.210(10) on the amount of gasoline and at the same rate on the amount of special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1), on the amount of gasoline and special fuels used in operations on public highways of this state.

(3) (a) In addition to the tax imposed in subsections (1) and (2) of this section, every motor carrier shall pay the weight distance tax as set forth in this section on the amount of gasoline and special fuels in operations on the public highways of this state.

(b) The weight distance tax shall be computed as follows on the combined licensed weight of the motor vehicle and trailers or semitrailers as defined in KRS 138.665: The rate shall be 2.85 cents (0.285) per mile, for combined licensed weights in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds.

(4) The tax levied under subsections (1), (2) and (3) of this section shall be computed and paid as provided in KRS 138.690.

Section 6. KRS 281.830 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.470, 186.020 and 186.050 and in subsection (2) of this section, the fees and taxes prescribed by this chapter shall be in addition to the fees and taxes prescribed by any other law of this state.

(2) No city or county may impose a license fee or tax upon any motor vehicle operated under a certificate or permit, except that a city may impose a license fee or tax upon a taxicab as set out in subsection *(4)* [~~(5)~~] of KRS 186.281.

Section 7. KRS 281.616, Regulations concerning rendition of charter bus service, is repealed.

Speaker Pro Tempore Blandford presiding.

Motions, Petitions, and Communications (continued)

Representative Gray moved the adoption of the following Legislative Citation No. 86. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with deep compassion and sincere regrets the untimely death of Patricia Ross, 37, of Eddyville, Kentucky. Mrs. Ross, a vocational education instructor at the Kentucky State Penitentiary for three years, provided and upgraded the food preparation program. Her leadership and teaching skills in preparation of foods and instructional services were a vital service to the Penitentiary. Her contribution to training and teaching will serve as a lasting tribute to her memory and her benevolent spirit will be cherished by those who loved her.

This prestigious body mourns her passing and extends our deepest sympathy to Brian Crawford, son, to Carlos and Mary Cole, parents, and to the entire family. (Sponsored by Representative Gray)

Speaker Richardson resumed the Chair.

The following meetings were announced:

Special Meeting of the Committee on Health and Welfare: Friday, on adjournment, Room 109.

Special Meeting of the Committee on Appropriations and Revenue: 30 minutes after adjournment, Room 109.

Committee on Agriculture and Small Business: Wednesday, 9:00 a.m.

Special Meeting of the Committee on Education: Wednesday, 9:00 to 10:00 a.m., Room 327.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members have filed requests to have their names added as co-sponsors of Bills: Representative Cowan, **HB 914**; Representative Lefevers, **HB 457**; Representative Moberly, **HB 850**; Representative Pearman, **HB 781**; Representative Stumbo, **HB 137**, **HB 600**; Representative Turner, **HB 950**.

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 605**, by Representative Moberly:

Amend printed copy of Committee Substitute to **HB 605**, on page 1, line 5, by deleting "*copy of a*" and substituting therefor "*proposed*"

And on page 1, line 6, by inserting after the word "*plan*" and before the "." the following: "*and the department approves same*"

And on page 1, line 7, by deleting the word "*approved*"

Floor Amendment No. 2 to **HB 619**, by Representative List:

Amend printed copy of **HB 619**, on page 2, after line 19, by adding the following:

(5) Provided, however, that all funds authorized to be received by the utility pursuant to subsection (4) shall be set aside and maintained in a separate account as designated by the Commission for the sole purpose of replacement of utility plant and equipment. No disbursement or other withdrawal shall be made from this account by the utility for any other purpose. The account balance shall be shown separately on all reports required by KRS 278.140 as well as all financial statements otherwise required to be filed by the Commission. Failure to properly maintain said account in accordance with the provisions herein shall subject the utility, its officers, agents or employes to the penalty provisions of KRS 278.990.

Floor Amendment No. 2 to **HB 650**, by Representative Lundergan:

Amend printed copy of **HB 650**, on page 1, line 6 after "*petition*" by inserting "*or certificate*"

And on line 7 after "*general*" by inserting "*or special*"

And on line 8 after "*obligations*" by deleting ","

And on line 9 by deleting "*including the candidate's personal note,*", and after "*expenses*" by inserting "*which have been*"

And on line 10 after "*incurred*" by inserting "*on behalf of his candidacy*", and after "*office*" by inserting "*, except for independent expenditures as defined in KRS 121.150(1) and the candidate's own debts, including his personal note, loan or other personal debts*"

And on page 2, line 13 after "*election*" by inserting "*officers*".

Floor Amendment No. 1 to **HB 670**, by Representative Freibert:

Amend printed copy of **HB 670**, on page 1, line 14, by inserting after "*date.*" the following: "*In those cases where the selection was made prior to the effective date of this Act, the employer shall provide such notification within ninety (90) days from the effective date of this Act.*"

Floor Amendment No. 1 to **HB 721**, by Representative Holbrook:

Amend printed copy of **HB 721**, on page 8 after line 8 by adding:

"SECTION 2. A NEW SECTION OF KRS 61.872 TO 61.884 IS CREATED TO READ AS FOLLOWS:

No public agency shall disclose to any person other than the policyholder any information identifying a policyholder which was submitted by an insurer. Any person aggrieved by violation of this section shall have a right of action against any official of a public agency who violates this section, including injunctive and punitive damages."

Representative Lundergan moved that **HB 650** as amended, be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Wednesday, March 7, 1984.

On the roll call the vote was yeas 77-Arnold, Barrows, Bendl, Bennett, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Fryman, Gedling, Gray, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams. Nays 6-Clarke, Freibert, Hancock, Handy, Maggard, Perkins.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 7, 1984

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. Tony Roberts, Buck Run Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 6, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 86, SB 169, SB 202, SB 247, SB 283, SB 294, HB 194** with Senate Committee Substitute and Committee Amendment, **HB 166, HB 451**, and **HB 508.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 327.**

Appropriations and Revenue: **SB 74, SB 93.**

Banking and Insurance: **SB 84.**

Education: **SB 223, SB 292, SR 42.**

Judiciary-Civil: **SB 233, SB 293.**

Labor and Industry: **SB 206.**

State Government: **SB 236, SB 237, SB 244.**

Transportation: **SB 238.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 886, HB 927, SB 243, SB 273.**

Report of Committees

The Committee on Rules reported **HB 546, HB 153, HB 547, HB 590, HB 86, HB 323, HB 632, SB 7, HB 51**, and **HB 69** have been posted for passage in Orders of the Day, March 8, 1984.

The Committee on Rules reported the following Bills have been recommitted:

Cities: **HB 207.**

State Government: **HB 238.**

Appropriations and Revenue: **HB 490, HB 660.**

Judiciary-Criminal: **HB 628.**

The Committee on Agriculture and Small Business reported **HB 642** and **HB 758,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 642, AN ACT relating to safety and inspections of amusement rides and attractions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

(2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump or move that provides amusement, pleasure, thrills, or excitement. "Amusement attraction" does not include tractor pulls, auto or motorcycle events, horse shows, rodeos and other animal shows, games and concessions.

(3) "Carnival" means an enterprise offering amusement or entertainment to the public by means of one (1) or more amusement rides and attractions.

(4) "Fair" means an enterprise principally devoted to the exhibition of products of agriculture, science, or industry in conjunction with the operation of one (1) or more amusement rides or attractions.

(5) "Owner" means any person who owns an amusement ride or attraction or, in the event that the amusement ride or attraction is leased, the lessee.

(6) "Commissioner" means the commissioner of Kentucky department of agriculture or his authorized representative.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) No amusement ride or attraction shall be operated at a fair or carnival in this state without a permit of operation issued by the commissioner to the owner or operator of such equipment.

(2) (a) The permit of operation required by this section shall be valid for a period of one (1) year and shall be issued in accordance with regulations promulgated by the commissioner.

(b) The fee for such permit of operation shall be twenty-five dollars ($25) for each ride or attraction owned or operated in this state.

(c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue such a policy in this state, in the amount of one million dollars ($1,000,000) due to all bodily injuries or death per occurrence. Every insurance carrier of such policies shall notify the commissioner at least thirty (30) days prior to cancellation of the policy. In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the commissioner may require, including, but not limited to, written notice of each intended operating site to be received by the commissioner at least fourteen (14) days prior to operation at that site. However, in cases of emergency, notice of a change in future plans may be given to the commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky state fair may be adjusted by the commissioner to any amount reasonably necessary to ensure adequate coverage.

(d) Before issuing any permit, the commissioner shall provide for an inspection of each amusement ride or attraction operated in this state. The commission shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with regulations adopted pursuant to this Act as amusement safety inspectors.

(e) A permit of operation shall be posted in full public view on or near the amusement ride or attraction.

(3) (a) In addition to a mandatory initial inspection, required in subsection (2)(d) of this section, the commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found and for additional inspections in which safety violations are found and corrected immediately. However, in regard to

situations in which safety violations are found that cannot be corrected immediately, the commissioner shall charge an inspection fee in the amount one hundred dollars ($100) for any future inspection necessary to determine if that particular amusement ride or attraction complies with accepted standards of safety.

(b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present.

(c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his permit of operation revoked and may be subject to further penalties provided in this Act. In addition, the county attorney of each county and the commissioner of agriculture or his agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of this Act.

(d) Revenue generated by this Act shall be used for the implementation and administration of this Act; the balance, if any, shall be paid into the general fund of this state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Amusement rides and attractions shall not be operated at unsafe speeds or loaded beyond a safe capacity in accordance with the factory specifications or, in the absence of factory specifications, in accordance with regulations prescribed by the commissioner.

(2) Amusement rides and attractions shall not be operated during periods of high wind, lightning, or heavy rain.

(3) Perimeter safety barriers such as a fence or other suitable structure shall be constructed around any amusement ride or attraction that is potentially hazardous to bystanders, in accordance with regulations promulgated by the commission.

Section 4. KRS 247.140 is amended to read as follows:

(1) The state fair board:

(a) Shall have the custody and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the state property and buildings commission, for any purposes mentioned in this section and the physical properties so under its custody and control or transferred to it are hereinafter referred to in this section, and in KRS 247.150 and 247.160, as the "state fair grounds and an area in a city of the first class to be used as an exhibition center."

(b) May erect and repair buildings on the state fair grounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objects defined in this section.

(c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fair grounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.

(d) May hold an annual fair on the state fair grounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.

(e) May purchase liability insurance for the members and executive officers exempted from the classified service of the state by KRS 18A.115.

(2) The state fair board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it shall proceed in the manner provided in the Eminent Domain Act of Kentucky.

(3) During the Kentucky state fair, amusement safety inspections shall be provided by and under the control of the department of agriculture. Such inspections shall be conducted at any time during the operation of the amusement rides and attractions and may be repeated as necessary. In addition, the state fair board shall absorb the full cost of the inspection program for amusement rides and attractions at the Kentucky state fair.

Section 5. KRS 247.990 is amended to read as follows:

(1) Any person who violates subsection (3) of KRS 247.270 or who diverts the funds or profits of a farm bureau to any purpose except the purposes of the farm bureau shall be guilty of theft and be punished as provided by law.

(2) Any officer who makes a certificate required by subsection (2) of KRS 247.270 or by KRS 247.300 knowing it to be false or incorrect in any particular, shall be fined not more than one hundred dollars ($100).

(3) Any owner of an amusement ride or attraction who violates any provision of this Act or any regulation promulgated pursuant to this Act, and such violation is specifically determined not to be of a

serious nature, is subject to a civil fine not to exceed one hundred dollars ($100) for each offense.

(a) Any owner of an amusement ride or attraction who knowingly operates an amusement ride or attraction without a permit of operation as required by this Act, shall be fined not more than two hundred fifty dollars ($250) or be imprisoned in the county jail for not more than ninety (90) days, or both.

(b) Any person who knowingly makes any false statement, representation, or certification in an application for a permit as required by this Act, shall be fined not more than two hundred fifty dollars ($250) or be imprisoned in the county jail for not more than ninety (90) days, or both.

(c) Any owner of an amusement ride or attraction who knowingly violates any provision of this Act or any regulation promulgated pursuant to this Act, and such violation is determined to be the cause of a serious injury or death, shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

HB 758, AN ACT relating to grain and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

It is the purpose of this Act to promote the state's welfare by improving the economic stability of agriculture through the establishment of the Kentucky grain indemnity insurance fund in order to protect grain producers in the event of the financial failure of a grain dealer or grain warehouseman and to ensure the existence of an adequate fund so that grain producers and claimants may be compensated for losses occasioned by the failure of a grain dealer or grain warehouseman.

SECTION 2. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

For the purposes of this Act, unless the context requires otherwise:

(1) "Board" means the governing body of the Kentucky grain insurance corporation.

(2) "Claimant" means any producer or person who has participated in the grain insurance fund, possessing warehouse receipts covering grain owned or stored by the grain dealer or warehouseman; any person with written evidence of ownership, other than warehouse receipts, disclosing a storage obligation of a grain dealer or warehouseman, including scale tickets, settlement sheets and ledger cards; any person who has lent money to a grain dealer or warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan monies and no warehouse receipt was issued; any person who has surrendered warehouse receipts as a part of a grain sale transaction with the grain dealer or warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; any producer who possesses written evidence of the sale of grain to a failed grain dealer or failed grain warehouseman, not limited to scale tickets, settlement sheets, price later contracts, basis contracts or similar grain delivery contracts, but did not get fully paid therefor and who is unable to secure satisfaction of financial obligations due from a person licensed by the department of agriculture in accordance with the grain storage establishment license act and this Act.

(3) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts.

(4) "Cooperative agreement" means any agreement made by the board with a person, local unit of government, state or federal agency or other states as may be reasonable and proper to carry out the provisions of this Act.

(5) "Commissioner" means the commissioner of the department of agriculture.

(6) "Corporation" means the Kentucky grain insurance corporation.

(7) "Department" means the department of agriculture of the Commonwealth of Kentucky.

(8) "Failure" means:

(a) An inability to financially satisfy a claimant in accordance with applicable statute or regulation and the time limits provided therein, if any;

(b) A declaration of insolvency;

(c) A revocation of license and leaving of outstanding indebtedness to claimants;

(d) A failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a grain dealer or grain warehouseman and a customer;

(e) A failure to apply for license renewal;

(f) A denial of license renewal; or

(g) A voluntary surrendering of a license.

(9) "Fund" means the Kentucky grain insurance fund established by the corporation pursuant to Section 5 of this Act.

(10) "Grain" means corn, wheat, oats, rye, soybeans, barley and grain sorghums, popcorn, and other agricultural commodities as approved by the department.

(11) "Grain assets" means:

(a) All grain owned or stored by said failed grain dealer or failed warehouseman, including grain in transit which was shipped by the failed grain dealer or failed warehouseman and for which payment has not been received;

(b) Redeposited grain;

(c) Proceeds from sale of grain due or to become due;

(d) Equity, less any secured financing directly associated therewith, in assets in commodity exchange grain margin accounts;

(e) Monies due or to become due, less any secured financing directly associated therewith, from any future contracts on any recognized commodity exchange;

(f) Other unencumbered funds or property or equity of the failed grain dealer or warehouseman in funds or property, wherever located, which can be directly traced as being from the sale of grain by the failed grain dealer or failed warehouseman. No funds, property, or equity in funds or property shall be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and is not the result of the taking of such funds, property, or equity in such funds or property as additional collateral for an antecedent debt; or

(g) Other unencumbered funds, property, or equity in assets.

(12) "Grain dealer" means any person engaged in the business of buying grain from producers thereof for resale or for milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale or for milling or processing.

(13) "Grain indemnity trust fund" or "trust fund" means a trust fund established by the commissioner.

(14) "Grain warehouseman" or "warehouseman" means any person who owns, controls, operates or manages any public grain warehouse in which grain is stored for a compensation and includes any grain warehouse licensed under the United States warehouse act that has entered into a cooperative agreement with the department.

(15) "Incidental grain dealer" means any grain dealer who purchases grain from producers only in connection with or as an incident to a feed milling operation and whose total purchases of grain during any fiscal year do not exceed one hundred thousand dollars ($100,000).

(16) "Person" means any person, grain dealer, warehouseman, partnership, firm, association, corporation, or other business organization;

(17) "Producer" or "grain producer" means the owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon.

(18) "Program" means the Kentucky grain insurance program.

(19) "United States warehouse act" means the United States warehouse act, enacted August 11, 1916, as amended.

(20) "Valid claim" means a claim arising from a failure of a grain dealer or warehouseman which occurs after the effective date of this Act, and adjudicated valid by the department, less all credits and offsets.

(21) "Warehouse receipt" means:

(a) A warehouse receipt issued under the public grain warehouse and warehouse receipts act in accordance with the uniform commercial code; or

(b) A warehouse receipt issued under the United States warehouse act, provided a cooperative agreement has been signed by the federal licensee and the department to authorize participation in the fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky grain insurance corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of eight (8) members, including the commissioner of the department of agriculture, who shall serve as president; the attorney general, who shall serve as secretary; the state treasurer, who shall serve as treasurer; the state auditor; two (2) representatives selected by the Kentucky feed and grain association; and two (2) representatives selected by the Kentucky farm bureau federation. Five (5) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of five (5) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of this Act, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the department of agriculture, the attorney general, and the state auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under Section 5 of this Act;

(f) Administer the Kentucky grain insurance fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of Section 8 of this Act; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

SECTION 4. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Every grain dealer and grain warehouseman required to be licensed under the provisions of KRS 251.420 to 251.510 and this Act shall be subject to this Act.

(2) All federally licensed grain warehouses that participate in the Kentucky grain insurance fund shall hold a state license and, at a minimum, meet the requirements of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of grain shall be assessed one-half cent (1/2) per bushel on all grain marketed and provide for the collection of the same for the purpose of financing or contributing to the financing of the Kentucky grain insurance fund, which is hereby created.

(2) Upon the establishment of the Kentucky grain insurance corporation, the commissioner shall notify forthwith by certified mail, all persons in this state engaged in the business of purchasing grain from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative from the purchase price of the grain. The assessment so deducted shall, on or before the fifteenth (15th) day of the month following the end of the month in which such grains are sold to the purchaser, be remitted by the purchaser to the grain insurance fund. The books and records of all purchasers of grain shall at all times be open for inspection by the commissioner of agriculture or his duly authorized agents during regular business hours.

(3) The assessment shall continue until the fund is more than three million dollars ($3,000,000). If and when the fund is more than three million dollars ($3,000,000), no fees shall be assessed by the department until such time as the amount in the fund drops below three million dollars ($3,000,000).

(4) Any producer upon and against whom the assessment is levied and collected under the provisions of this Act, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection or compensation provided for by the grain insurance corporation.

(5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of this Act, the grain insurance corporation may make application to the Franklin circuit court for an order enjoining such acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

(6) The assessments by the department pursuant to this section are in addition to any other fees or assessments required by law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

All assessments by the department pursuant to Section 5 of this Act shall be held by the corporation in trust in the Kentucky grain insurance fund for carrying out the purposes of this Act. These funds shall be invested and reinvested in U.S. treasury obligations at the discretion of the corporation, and the interest from these investments shall be deposited to the credit of the fund and shall be available for the same purposes as all other money deposited in the fund. The money in the fund shall not be available for any purpose other than the payment of claims pursuant to this Act, and shall not be transferred to any fund other than the grain indemnity trust fund, which is hereby created. This limiting and nontransferability provision shall not be *severable from the whole of this Act; and if such provision is held invalid, repealed or substantially amended, the entire Act shall immediately become invalid, and to this end, such provision is declared to be nonseverable.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

In the event that amounts in the Kentucky grain insurance fund are insufficient to pay all approved claims, the general assembly shall appropriate to the corporation amounts sufficient to satisfy such claims. If for any reason the general assembly shall fail to make an appropriation to satisfy outstanding approved claims, this Act shall constitute an irrevocable and continuing appropriation of all amounts necessary for that purpose and the irrevocable and continuing authority for, and direction to, the secretary of the finance and administration cabinet and the state treasurer to make the necessary transfers and disbursements from the revenues and funds of the state for that purpose. The state shall be reimbursed, with interest at the rate of six percent (6%) per annum, for any amounts paid under this section upon replenishment of the fund from assessments made pursuant to Section 5 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Within ninety (90) days of the board's approval of a valid claim, the board shall, in accordance with the provisions of this section, compensate from the grain indemnity trust fund any claimant who has incurred a financial loss due to a failure of a grain dealer or warehouseman.

(2) Any claimant who has incurred a financial loss due to a failure of a grain dealer shall be entitled to be compensated for eighty percent (80%) of a valid claim, to a maximum of one hundred thousand dollars ($100,000), with monies from the Kentucky grain insurance fund. To the maximum extent that funds are or may be made available for the purpose, the remaining balance of the claim shall be paid by the board from the assets and other security of the failed grain dealer, provided that any claimant who has incurred a financial loss due to the failure of a grain dealer and who has surrendered a warehouse receipt for payment shall be compensated for one hundred percent (100%) of a valid claim.

(3) Any claimant who has incurred a financial loss due to a failure of a grain warehouseman shall be entitled to be compensated for eighty-five percent (85%) of a valid claim with monies from the Kentucky grain insurance fund. To the maximum extent that funds are or may be made available for such purpose, the remaining balance of such claim shall be paid by the board from the assets and other security of the failed grain warehouse, provided that any claimant who has incurred a financial loss due to the failure of a grain warehouse and who has surrendered a warehouse receipt for payment shall be compensated for one hundred percent (100%) of a valid claim.

SECTION 9. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

The board, when it has determined that a grain dealer or grain warehouseman has defaulted payment or failed, shall have the following duties under this Act:

(1) Determine valid claims and the amount of such claims to be paid to claimants for financial losses which were incurred due to the failure of a grain dealer or grain warehouseman;

(2) Request the transfer of monies from the Kentucky grain insurance fund to the grain indemnity trust fund when necessary for the purpose of compensating claimants in accordance with the provisions of Section 8 of this Act;

(3) Deposit into the grain indemnity trust fund any remaining assets of a failed grain dealer or grain warehouseman for the purposes of repayment of the Kentucky grain insurance fund monies used to pay claimants. Any repayment into the Kentucky grain insurance fund shall not exceed the principal amount paid to claimants plus interest at the rate of six percent (6%) per annum; and

(4) In the event that the amount in the Kentucky grain insurance fund is insufficient to pay all valid claims in accordance with Section 8 of this Act, to grant priority of payment of all the claims in the order they were approved as valid by the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

The board shall have the following duties under this Act:

(1) Collect and deposit all assessments authorized under Section 5 of this Act into the Kentucky grain insurance fund for investment by the board;

(2) Transfer any monies from the grain indemnity trust fund to the Kentucky grain insurance fund for investment;

(3) Be subrogated to all the rights of the claimant. The claimant shall assign all his rights, title and interest in any judgment to the corporation. The board shall initiate any action it may deem necessary to compel the grain dealer or warehouseman against whom an awarded claim arose to repay to the Kentucky grain insurance fund the sums that are disbursed therefrom in relation to each claim; and

(4) Initiate any action it may deem necessary to compel the claimant whose claim arose due to a failure to participate in any legal proceeding in relation to the claim.

SECTION 11. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) The department and the board shall have authority to promulgate and adopt rules and regulations consistent with this Act.

(2) Nothing contained herein shall limit the authority of the commissioner to take disciplinary action against any licensed grain dealer or warehouseman for a violation of this Act, or the rules and regulations of the department, nor shall the repayment in full of all obligations to the Kentucky grain insurance fund by any licensed grain dealer or warehouseman nullify or modify the effect of any other disciplinary proceeding brought pursuant to this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

Failure to collect and pay the assessments required by Section 5 of this Act shall be grounds for the suspension or revocation of a license or a cooperative agreement by the commissioner.

SECTION 13. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Any person engaged in the business of buying grain from producers for resale or for milling or processing shall first procure a license from the department as required by the board before transacting business. Such license shall expire on June 30, and shall be renewed annually. The annual license fee shall be based on the total annual volume handled as follows:

(a) Under two million (2,000,000) bushels, two hundred dollars ($200);
(b) Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);
(c) Six million (5,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or
(d) Over ten million (10,000,000) bushels, five hundred dollars ($500).

(2) The fee for each license shall be deposited in a trust and agency fund account in the state treasury to be used for carrying out the provisions of KRS 251.410 to 251.510.

(3) Every person licensed as a grain dealer shall file with the department a surety bond signed by the dealer as principal and by a responsible company authorized to execute surety bonds within the Commonwealth of Kentucky. A grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee. The principal amount of the certificate shall be the same as that required for a surety bond under this Act, and the interest thereon shall be made payable to the purchaser. The bond shall be a principal amount, to the nearest one thousand dollars ($1,000), equal to ten percent (10%) of the aggregate dollar amount paid by the dealer to producers for grain purchased from them during the dealer's last completed fiscal year, or in the case of a dealer who has been engaged in business as a grain dealer for less than one (1) year or who has not theretofore engaged in such business, ten percent (10%) of the estimated aggregate dollar amount to be paid by the dealer to producers for grain purchased from them during the next fiscal year. Such bond shall not be less than twenty-five thousand dollars ($25,000) nor more than one hundred thousand dollars ($100,000), except as otherwise authorized by this Act. Any grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee. The principal amount of the certificate shall be the same as that required for a surety bond under this Act and the interest thereon shall be made payable to the purchaser thereof.

(4) The commissioner shall, when he questions a grain dealer's ability to pay producers for grain purchased, or when he determines that the grain dealer does not have a sufficient net worth to meet his financial obligations, require a grain dealer to post an additional bond in a dollar amount equal to the insufficiency or shall require an additional certificate of deposit equal to the insufficiency, as deemed appropriate by the commissioner. Failure to post the additional bond or certificate of deposit constitutes grounds for suspension or revocation of a license issued under this Act.

(5) The bond or additional bond shall be made payable to the Commonwealth of Kentucky, with the commissioner as trustee, and shall be conditioned on the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this Act. It shall be for the use and benefit of any producer from whom the grain dealer may purchase grain and who is not paid by the grain dealer, and shall not be cancelled, except upon at least sixty (60) days' notice in writing to the department. In no event shall the total aggregate liability of a surety exceed the face amount of its bond.

(6) Any grain dealer who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain purchased by him may request the commissioner to be relieved of the obligation of filing a bond in excess of the minimum bond of twenty-five thousand dollars ($25,000). Such request shall be accompanied by a financial statement of the applicant made within five (5) months of the date of such request, certified by a licensed public accountant, and such additional information concerning the applicant and his finances as the department may require. If such financial statement discloses a net worth of an amount equal to at least three (3) times the amount of the bond required by this Act and the commissioner is otherwise satisfied as to the financial ability and resources of the applicant, the commissioner may waive that portion of the required bond in excess of twenty-five thousand dollars ($25,000). However, in the case of a grain dealer whose net worth is not equal to three (3) times the amount of bond required, the commissioner

may allow the grain dealer to waive, in one thousand dollar ($1,000) increments, a portion of the bond required in excess of twenty-five thousand dollars ($25,000). The percentage factor to be applied to the bond required in excess of twenty-five thousand dollars ($25,000) shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of twenty-five thousand dollars ($25,000). If the result of this computation provides a percentage factor of eighty percent (80%) or greater, than that same percentage of the bond in excess of twenty-five thousand dollars ($25,000) may be waived. The grain dealer shall then provide to the department a surety bond in the amount of twenty-five thousand dollars ($25,000) plus any additional bond required in excess thereof.

(7) Any grain dealer who purchases grain from producers only in connection with or as an incident to some other business and whose total purchases of grain from producers during any fiscal year do not exceed an aggregate dollar amount of one hundred thousand dollars ($100,000) may satisfy the bonding requirements of this Act by filing with the department a bond or certificate of deposit at the rate of one thousand dollars ($1,000) for each ten thousand dollars ($10,000) or fraction thereof of the dollar amount to be purchased with a minimum bond or certificate of deposit of one thousand dollars ($1,000), and a current financial statement.

(8) Failure of a grain dealer to file a bond or certificate of deposit and to keep the bond or certificate of deposit in force or to maintain assets adequate to assure payment to producers for grain purchased from them shall be grounds for the suspension or revocation of a license issued under this Act.

(9) When the commissioner has determined that a grain dealer has defaulted payment to producers for grain which he has purchased from them, the commissioner shall determine, through appropriate legal procedures, the producers and the amount of defaulted payment, and, as trustee of the bond, shall immediately after the determination call for the dealer's surety bond or bonds to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds then the surety shall be obligated to pay only the amount of the default.

(10) Any grain dealer who is also in the business of storing grain and is a warehouseman as defined in Section 3 of this Act may be exempted from the licensing fee and bonding requirements of Section 16 of this Act as long as his storage capacity and storage obligations are considered in formulating his grain dealer bond requirement.

Section 14. KRS 251.410 is amended to read as follows:

As used in KRS 251.420 to 251.510, unless the context requires otherwise:

(1) "Person" means an individual storing grain for others and issuing a receipt for such grain or a scale ticket.

(2) "Firm" or "corporation" means an individual, corporation, partnership, or two or more persons having a joint or common interest in same venture, of storing grain for others and issuing a receipt for such grain or a scale ticket.

(3) "Department" means the Kentucky department of agriculture.

(4) "Stored grain" means grain received from a producer and unpaid for and held for a period longer than thirty days after delivery of the last load.

(5) "Board" means the state board of agriculture.

(6) "Owner" means a person whose grain is in storage and has been issued a grain storage receipt or a scale ticket.

(7) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts.

Section 15. KRS 251.430 is amended to read as follows:

Any person, firm, or corporation who shall accept grain for storage in this state shall first procure a license therefor from the department as required by the board before transacting such business. This shall not apply to the storage of grain by an establishment bonded and licensed under the provisions of a federal law to the extent that such stored grain is covered by a federal bond and law; otherwise, such establishments shall comply with the provisions of this chapter. Any establishment that has unpaid for grain 30 days after delivery of the last load by a producer shall be considered in the grain storage business. Such license shall expire on June 30, and shall be renewed annually. The fee for each license shall be *according to the following schedule* [~~$25 dollars~~], which shall be deposited in a trust and agency fund account in the State Treasury to be used for carrying out the provisions of KRS 251.410 to 251.510*:*

Total annual volume handled:

(a) Under two million (2,000,000) bushels, two hundred dollars ($200);

(b) Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);

(c) Six million (6,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or

(d) Over ten million (10,000,000) bushels, five hundred dollars ($500).

SECTION 16. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Each warehouseman shall file with the department a surety bond issued by a surety company

authorized to transact business within the Commonwealth of Kentucky, payable to the Commonwealth with the commissioner as trustee. The amount of the bond for a warehouseman shall be established by rule of the department, but in no event shall the sum be less than twenty-five cents' (25) per bushel of the total maximum bushel capacity of the warehouse or ten thousand dollars ($10,000), whichever is greater.

(2) The bond shall be conditioned on the faithful performance of duties as an operator and the full and unreserved compliance with the laws of this state and the rules of the department in relation thereto, so that the depositors holding warehouse receipts, contracts or other documented evidence of stored grain may receive the benefit of such bond. The aggregate liability of the surety to all depositors shall in no event exceed the sum of the bond. Neither the issuance of warehouse receipts by a warehouseman to himself for grain owned in whole or in part by him, the commingling of grain owned by the warehouseman with grain stored for others, or any violation by a warehouseman of this Act or of the rules and regulations issued by the department hereunder shall constitute a defense in any action brought upon any bond, and all such bonds shall so provide. Maximum capacity of a warehouse shall be determined by dividing the cubic volume of all bins by two thousand one hundred fifty and forty-two one hundredths (2,150.42) cubic inches. Such bond must be kept in force at all times while the operator is conducting a warehouse. Failure to keep the bond in force is cause for revocation of the license and subjects the warehouseman to the criminal penalty provided in this Act. Each bond shall contain a provision that it may not be cancelled by either the surety or the principal except upon sixty (60) days' notice in writing to the department at its offices in Frankfort. The notice will in no way affect the liability accrued or that which may accrue under the bond before the expiration of the sixty (60) days. The department may require additional bond where the assets of any warehouseman appear insufficient, when compared to his storage obligations, or to meet the bond requirements of the United States or any agency or corporation controlled by the United States when they have a contract for storage with the warehouseman. The additional bond shall be a dollar amount equal to the insufficiency. Failure to post such additional bond constitutes grounds for suspension or revocation of a license issued under this Act.

Section 17. KRS 251.440 is amended to read as follows:

Application for license shall set forth the name of the applicant, its principal officer, if a corporation, or the active members of a partnership if a partnership, and the location or locations of the principal office or place of business and the locations in this state at which applicant proposes to engage in this business. Application must be accompanied by a bond as set forth in *Section 16 of this Act* [~~KRS 251.450~~]. Such bond shall run to the state of Kentucky and be for the benefit of all persons storing grain in such warehouse. It shall be conditioned upon such warehouseman carrying combustion, fire, lightning, and tornado insurance sufficient to cover loss upon all stored grain in such warehouse, and the delivery of all stored grain or payment of the value thereof upon the surrender of the warehouse receipt or scale ticket, and upon the faithful performance by the warehouseman of all provisions of law relating to the storage and handling of grain by the warehouseman and the regulations of the Kentucky Department of Agriculture relative thereto.

Section 18. KRS 251.490 is amended to read as follows:

The department shall inspect the licensed elevator twice each year for the purpose of determining if grain is in storage or statements that show grain is accounted for, condition of storage facilities, and condition of grain in storage. A licensee that is short of facilities may store at another establishment provided that establishment is located in the state of Kentucky and is also licensed and the amount of grain stored is covered in the bond set forth in *Section 16 of this Act* [~~KRS 251.450~~]. A licensee that is short of facilities and/or grain may cover shortage by giving additional bond on 100% value of grain or depositing value of grain in a special account made jointly to the Kentucky State Board of Agriculture and the licensee. This money can only be released to buy the grain from the producers or replace the grain for the producer. All interest drawn on this account is payable to the licensee after his obligations are met.

Section 19. KRS 251.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 251.180 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.

(2) Any person who violates KRS 251.220 or 251.290 shall be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one (1) year, or both.

(3) Any person who violates KRS 251.240 shall be guilty of a felony and fined not more than one thousand dollars ($1,000) or imprisoned for not more than two (2) years, or both.

(4) Any person who violates KRS 251.300 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(5) Any person who violates the provisions of KRS 251.420 to 251.510 shall be fined two hundred dollars ($200) for the first offense. He shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and/or be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days for each subsequent offense. Each day of operation in violation of the provisions of KRS 251.420 to 251.510 shall constitute a separate offense.

(6) Any person who violates the bonding provisions of Section 13 or 16 of this Act, or who violates Section 5 of this Act shall have his license revoked.

(7) Any person who operates without a license as required by Section 13 or 16 of this Act shall be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each violation, or imprisoned for not more than one (1) year, or both.

Section 20. This Act shall be known and may be cited as the Kentucky Grain Insurance Act.

Section 21. KRS 251.450, Form of bond -- Computation of amount, is repealed.

The Committee Substitute to **HB 758** is as follows:

HB 758, AN ACT relating to grain and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

It is the purpose of this Act to promote the state's welfare by improving the economic stability of agriculture through the establishment of the Kentucky grain indemnity insurance fund in order to protect grain producers in the event of the financial failure of a grain dealer or grain warehouseman and to ensure the existence of an adequate fund so that grain producers and claimants may be compensated for losses occasioned by the failure of a grain dealer or grain warehouseman.

SECTION 2. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

For the purposes of this Act, unless the context requires otherwise:

(1) "Board" means the governing body of the Kentucky grain insurance corporation.

(2) "Claimant" means any producer or person who has participated in the grain insurance fund, possessing warehouse receipts covering grain owned or stored by the grain dealer or warehouseman; any person with written evidence of ownership, other than warehouse receipts, disclosing a storage obligation of a grain dealer or warehouseman, including scale tickets, settlement sheets and ledger cards; any person who has lent money to a grain dealer or warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan monies and no warehouse receipt was issued; any person who has surrendered warehouse receipts as a part of a grain sale transaction with the grain dealer or warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; any producer who possesses written evidence of the sale of grain to a failed grain dealer or failed grain warehouseman, not limited to scale tickets, settlement sheets, price later contracts, basis contracts or similar grain delivery contracts, but did not get fully paid therefor and who is unable to secure satisfaction of financial obligations due from a person licensed by the department of agriculture in accordance with the grain storage establishment license act and this Act.

(3) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts.

(4) "Cooperative agreement" means any agreement made by the board with a person, local unit of government, state or federal agency or other states as may be reasonable and proper to carry out the provisions of this Act.

(5) "Commissioner" means the commissioner of the department of agriculture.

(6) "Corporation" means the Kentucky grain insurance corporation.

(7) "Department" means the department of agriculture of the Commonwealth of Kentucky.

(8) "Failure" means:

(a) An inability to financially satisfy a claimant in accordance with applicable statute or regulation and the time limits provided therein, if any;

(b) A declaration of insolvency;

(c) A revocation of license and leaving of outstanding indebtedness to claimants;

(d) A failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a grain dealer or grain warehouseman and a customer;

(e) A failure to apply for license renewal;

(f) A denial of license renewal; or

(g) A voluntary surrendering of a license.

(9) "Fund" means the Kentucky grain insurance fund established by the corporation pursuant to Section 5 of this Act.

(10) "Grain" means corn, wheat, oats, rye, soybeans, barley and grain sorghums, popcorn, and other agricultural commodities as approved by the department.

(11) "Grain assets" means:

(a) All grain owned or stored by said failed grain dealer or failed warehouseman, including grain in

transit which was shipped by the failed grain dealer or failed warehouseman and for which payment has not been received;

(b) Redeposited grain;

(c) Proceeds from sale of grain due or to become due;

(d) Equity, less any secured financing directly associated therewith, in assets in commodity exchange grain margin accounts;

(e) Monies due or to become due, less any secured financing directly associated therewith, from any future contracts on any recognized commodity exchange;

(f) Other unencumbered funds or property or equity of the failed grain dealer or warehouseman in funds or property, wherever located, which can be directly traced as being from the sale of grain by the failed grain dealer or failed warehouseman. No funds, property, or equity in funds or property shall be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and is not the result of the taking of such funds, property, or equity in such funds or property as additional collateral for an antecedent debt; or

(g) Other unencumbered funds, property, or equity in assets.

(12) "Grain dealer" means any person engaged in the business of buying grain from producers thereof for resale or for milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale or for milling or processing.

(13) "Grain indemnity trust fund" or "trust fund" means a trust fund established by the commissioner.

(14) "Grain warehouseman" or "warehouseman" means any person who owns, controls, operates or manages any public grain warehouse in which grain is stored for a compensation and includes any grain warehouse licensed under the United States warehouse act that has entered into a cooperative agreement with the department.

(15) "Incidental grain dealer" means any grain dealer who purchases grain from producers only in connection with or as an incident to a feed milling operation and whose total purchases of grain during any fiscal year do not exceed one hundred thousand dollars ($100,000).

(16) "Person" means any person, grain dealer, warehouseman, partnership, firm, association, corporation, or other business organization;

(17) "Producer" or "grain producer" means the owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon.

(18) "Program" means the Kentucky grain insurance program.

(19) "United States warehouse act" means the United States warehouse act, enacted August 11, 1916, as amended.

(20) "Valid claim" means a claim arising from a failure of a grain dealer or warehouseman which occurs after the effective date of this Act, and adjudicated valid by the department, less all credits and offsets.

(21) "Warehouse receipt" means:

(a) A warehouse receipt issued under the public grain warehouse and warehouse receipts act in accordance with the uniform commercial code; or

(b) A warehouse receipt issued under the United States warehouse act, provided a cooperative agreement has been signed by the federal licensee and the department to authorize participation in the fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky grain insurance corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the commissioner of the department of agriculture, who shall serve as president; the attorney general, who shall serve as secretary; the state treasurer, who shall serve as treasurer; the state auditor; two (2) representatives selected by the Kentucky feed and grain association; two (2) representatives selected by the Kentucky farm bureau federation; and two (2) representatives selected by the Kentucky national farmers organization. Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of this Act, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the department of agriculture, the attorney general, and the state auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under Section 5 of this Act;

(f) Administer the Kentucky grain insurance fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of Section 8 of this Act; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

SECTION 4. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Every grain dealer and grain warehouseman required to be licensed under the provisions of KRS 251.420 to 251.510 and this Act shall be subject to this Act.

(2) All federally licensed grain warehouses that participate in the Kentucky grain insurance fund shall hold a state license and, at a minimum, meet the requirements of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) It is declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of grain shall be assessed one-half cent (1/2) per bushel on all grain marketed and provide for the collection of the same for the purpose of financing or contributing to the financing of the Kentucky grain insurance fund, which is hereby created. However, grain producers from outside of Kentucky shall not be subject to the assessment if they certify to the grain dealer or warehouseman that they are out-of-state producers. The department shall establish the form to be completed, signed and given to the grain dealer or warehouseman in order to obtain the exemption. The information required by the department shall include at a minimum, the date, the producer's name, business address, phone number, quantity and identify the grain. Copy of such form shall be kept as a part of the books and records by the grain dealer or warehouseman and in addition a copy of such form shall be supplied to the department. A grain producer from outside of Kentucky may be subject to the assessment and therefore awarded all the protection thereof if he so chooses and meets the requirements of this Act. The Kentucky grain insurance corporation may enter into a reciprocal agreement with a contiguous state having a similar program.

(2) Upon the establishment of the Kentucky grain insurance corporation, the commissioner shall notify forthwith by certified mail, all persons in this state engaged in the business of purchasing grain from producers, that on and after the date specified in the letter, the specified assessment shall be deducted from the producer's payment by the purchaser, or his agent or representative from the purchase price of the grain. The assessment so deducted shall, on or before the fifteenth (15th) day of the month following the end of the month in which such grains are sold to the purchaser, be remitted by the purchaser to the grain insurance fund. The books and records of all purchasers of grain, which shall clearly indicate the producer assessment, shall at all times be open for inspection by the commissioner of agriculture or his duly authorized agents during regular business hours. The commissioner or his agents may take such steps as are reasonably necessary to verify the accuracy of books and records of purchasers of grain.

(3) The assessment shall continue until the fund is more than three million dollars ($3,000,000). If and when the fund is more than three million dollars ($3,000,000), no fees shall be assessed by the department until such time as the amount in the fund drops below three million dollars ($3,000,000). However, any producer who has not contributed to the fund may participate in the program and therefore be awarded all the protection thereof only after an assessment equal to one-half cent (1/2) per bushel on all grain marketed by the producer during the preceding twelve (12) month period is made and paid into the fund. No producer will be granted protection of the fund who has not participated in the program prior to meeting the criteria of a claimant.

(4) Any producer upon and against whom the assessment is levied and collected under the provisions of this Act, if dissatisfied with the assessment and the result thereof, may demand of and receive from the treasurer of the grain insurance corporation a refund of assessment collected from the producer, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer. By voluntarily submitting to a refund, the producer forgoes any protection or compensation provided for by the grain insurance corporation.

(5) When in the judgment of the board or the duly certified association, a purchaser has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of this Act,

the grain insurance corporation may make application to the Franklin circuit court for an order enjoining such acts or practices, and obtain a restraining order and preliminary injunction against the purchaser.

(6) The assessments by the department pursuant to this section are in addition to any other fees or assessments required by law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

All assessments by the department pursuant to Section 5 of this Act shall be held by the corporation in trust in the Kentucky grain insurance fund for carrying out the purposes of this Act. These funds shall be invested and reinvested in U.S. treasury obligations at the discretion of the corporation, and the interest from these investments shall be deposited to the credit of the fund and shall be available for the same purposes as all other money deposited in the fund. The money in the fund shall not be available for any purpose other than the payment of claims pursuant to this Act, and shall not be transferred to any fund other than the grain indemnity trust fund, which is hereby created. This limiting and nontransferability provision shall not be severable from the whole of this Act; and if such provision is held invalid, repealed or substantially amended, the entire Act shall immediately become invalid, and to this end, such provision is declared to be nonseverable.

SECTION 7. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

In the event that amounts in the Kentucky grain insurance fund are insufficient to pay all approved claims, the general assembly shall appropriate to the corporation amounts sufficient to satisfy such claims. If for any reason the general assembly shall fail to make an appropriation to satisfy outstanding approved claims, this Act shall constitute an irrevocable and continuing appropriation of all amounts necessary for that purpose and the irrevocable and continuing authority for, and direction to, the secretary of the finance and administration cabinet and the state treasurer to make the necessary transfers and disbursements from the revenues and funds of the state for that purpose. The state shall be reimbursed, with interest at the rate paid on ninety (90) day U.S. treasury bills, for any amounts paid under this section upon replenishment of the fund from assessments made pursuant to Section 5 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Within ninety (90) days of the board's approval of a valid claim, the board shall, in accordance with the provisions of this section, compensate from the grain indemnity trust fund any claimant who has incurred a financial loss due to a failure of a grain dealer or warehouseman.

(2) Any claimant who has incurred a financial loss due to a failure of a grain dealer shall be entitled to be compensated for eighty percent (80%) of a valid claim, to a maximum of one hundred thousand dollars ($100,000), with monies from the Kentucky grain insurance fund. To the maximum extent that funds are or may be made available for the purpose, the remaining balance of the claim shall be paid by the board from the assets and other security of the failed grain dealer, provided that any claimant who has incurred a financial loss due to the failure of a grain dealer and who has surrendered a warehouse receipt for payment shall be compensated for one hundred percent (100%) of a valid claim.

(3) Any claimant who has incurred a financial loss due to a failure of a grain warehouseman shall be entitled to be compensated for eighty-five percent (85%) of a valid claim with monies from the Kentucky grain insurance fund. To the maximum extent that funds are or may be made available for such purpose, the remaining balance of such claim shall be paid by the board from the assets and other security of the failed grain warehouse, provided that any claimant who has incurred a financial loss due to the failure of a grain warehouse and who has surrendered a warehouse receipt for payment shall be compensated for one hundred percent (100%) of a valid claim.

SECTION 9. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

The board, when it has determined that a grain dealer or grain warehouseman has defaulted payment or failed, shall have the following duties under this Act:

(1) Determine valid claims and the amount of such claims to be paid to claimants for financial losses which were incurred due to the failure of a grain dealer or grain warehouseman;

(2) Request the transfer of monies from the Kentucky grain insurance fund to the grain indemnity trust fund when necessary for the purpose of compensating claimants in accordance with the provisions of Section 8 of this Act;

(3) Deposit into the grain indemnity trust fund any remaining assets of a failed grain dealer or grain warehouseman for the purposes of repayment of the Kentucky grain insurance fund monies used to pay claimants. Any repayment into the Kentucky grain insurance fund shall not exceed the principal amount paid to claimants plus interest at the rate paid on ninety (90) day U.S. treasury bills; and

(4) In the event that the amount in the Kentucky grain insurance fund is insufficient to pay all valid claims in accordance with Section 8 of this Act, to grant priority of payment of all the claims in the order they were approved as valid by the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

The board shall have the following duties under this Act:

(1) Collect and deposit all assessments authorized under Section 5 of this Act into the Kentucky grain insurance fund for investment by the board;

(2) Transfer any monies from the grain indemnity trust fund to the Kentucky grain insurance fund for investment;

(3) Be subrogated to all the rights of the claimant. The claimant shall assign all his rights, title and interest in any judgment to the corporation. The board shall initiate any action it may deem necessary to compel the grain dealer or warehouseman against whom an awarded claim arose to repay to the Kentucky grain insurance fund the sums that are disbursed therefrom in relation to each claim; and

(4) Initiate any action it may deem necessary to compel the claimant whose claim arose due to a failure to participate in any legal proceeding in relation to the claim.

SECTION 11. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) The department and the board shall have authority to promulgate and adopt rules and regulations consistent with this Act.

(2) Nothing contained herein shall limit the authority of the commissioner to take disciplinary action against any licensed grain dealer or warehouseman for a violation of this Act, or the rules and regulations of the department, nor shall the repayment in full of all obligations to the Kentucky grain insurance fund by any licensed grain dealer or warehouseman nullify or modify the effect of any other disciplinary proceeding brought pursuant to this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

Failure to collect and pay the assessments required by Section 5 of this Act shall be grounds for the suspension or revocation of a license or a cooperative agreement by the commissioner.

SECTION 13. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Any person engaged in the business of buying grain from producers for resale or for milling or processing shall first procure a license from the department as required by the board before transacting business. Such license shall expire on June 30, and shall be renewed annually. The annual license fee shall be based on the total annual volume handled as follows:

(a) Under two million (2,000,000) bushels, two hundred dollars ($200);

(b) Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);

(c) Six million (6,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or

(d) Over ten million (10,000,000) bushels, five hundred dollars ($500).

(2) The fee for each license shall be deposited in a trust and agency fund account in the state treasury to be used for carrying out the provisions of KRS 251.410 to 251.510.

(3) Every person licensed as a grain dealer shall file with the department a surety bond signed by the dealer as principal and by a responsible company authorized to execute surety bonds within the Commonwealth of Kentucky. A grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee. The principal amount of the certificate shall be the same as that required for a surety bond under this Act, and the interest thereon shall be made payable to the purchaser. The bond shall be a principal amount, to the nearest one thousand dollars ($1,000), equal to ten percent (10%) of the aggregate dollar amount paid by the dealer to producers for grain purchased from them during the dealer's last completed fiscal year, or in the case of a dealer who has been engaged in business as a grain dealer for less than one (1) year or who has not theretofore engaged in such business, ten percent (10%) of the estimated aggregate dollar amount to be paid by the dealer to producers for grain purchased from them during the next fiscal year. Such bond shall not be less than twenty-five thousand dollars ($25,000) nor more than one hundred thousand dollars ($100,000), except as otherwise authorized by this Act. Any grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee. The principal amount of the certificate shall be the same as that required for a surety bond under this Act and the interest thereon shall be made payable to the purchaser thereof.

(4) The commissioner shall, when he questions a grain dealer's ability to pay producers for grain purchased, or when he determines that the grain dealer does not have a sufficient net worth to meet his financial obligations, require a grain dealer to post an additional bond in a dollar amount equal to the insufficiency or shall require an additional certificate of deposit equal to the insufficiency, as deemed appropriate by the commissioner. Failure to post the additional bond or certificate of deposit constitutes grounds for suspension or revocation of a license issued under this Act.

(5) The bond or additional bond shall be made payable to the Commonwealth of Kentucky, with the commissioner as trustee, and shall be conditioned on the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this Act. It shall be for the use and benefit of any producer from whom

the grain dealer may purchase grain and who is not paid by the grain dealer, and shall not be cancelled, except upon at least sixty (60) days' notice in writing to the department. In no event shall the total aggregate liability of a surety exceed the face amount of its bond.

(6) Any grain dealer who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain purchased by him may request the commissioner to be relieved of the obligation of filing a bond in excess of the minimum bond of twenty-five thousand dollars ($25,000). Such request shall be accompanied by a financial statement of the applicant made within five (5) months of the date of such request, certified by a licensed public accountant, and such additional information concerning the applicant and his finances as the department may require. If such financial statement discloses a net worth of an amount equal to at least three (3) times the amount of the bond required by this Act and the commissioner is otherwise satisfied as to the financial ability and resources of the applicant, the commissioner may waive that portion of the required bond in excess of twenty-five thousand dollars ($25,000). However, in the case of a grain dealer whose net worth is not equal to three (3) times the amount of bond required, the commissioner may allow the grain dealer to waive, in one thousand dollar ($1,000) increments, a portion of the bond required in excess of twenty-five thousand dollars ($25,000). The percentage factor to be applied to the bond required in excess of twenty-five thousand dollars ($25,000) shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of twenty-five thousand dollars ($25,000). If the result of this computation provides a percentage factor of eighty percent (80%) or greater, than that same percentage of the bond in excess of twenty-five thousand dollars ($25,000) may be waived. The grain dealer shall then provide to the department a surety bond in the amount of twenty-five thousand dollars ($25,000) plus any additional bond required in excess thereof.

(7) Any grain dealer who purchases grain from producers only in connection with or as an incident to some other business and whose total purchases of grain from producers during any fiscal year do not exceed an aggregate dollar amount of one hundred thousand dollars ($100,000) may satisfy the bonding requirements of this Act by filing with the department a bond or certificate of deposit at the rate of one thousand dollars ($1,000) for each ten thousand dollars ($10,000) or fraction thereof of the dollar amount to be purchased with a minimum bond or certificate of deposit of one thousand dollars ($1,000), and a current financial statement.

(8) Failure of a grain dealer to file a bond or certificate of deposit and to keep the bond or certificate of deposit in force or to maintain assets adequate to assure payment to producers for grain purchased from them shall be grounds for the suspension or revocation of a license issued under this Act.

(9) When the commissioner has determined that a grain dealer has defaulted payment to producers for grain which he has purchased from them, the commissioner shall determine, through appropriate legal procedures, the producers and the amount of defaulted payment, and, as trustee of the bond, shall immediately after the determination call for the dealer's surety bond or bonds to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds then the surety shall be obligated to pay only the amount of the default.

(10) Any grain dealer who is also in the business of storing grain and is a warehouseman as defined in Section 2 of this Act may be exempted from the licensing fee and bonding requirements of Section 16 of this Act as long as his storage capacity and storage obligations are considered in formulating his grain dealer bond requirement.

Section 14. KRS 251.410 is amended to read as follows:

As used in KRS 251.420 to 251.510, unless the context requires otherwise:

(1) "Person" means an individual storing grain for others and issuing a receipt for such grain or a scale ticket.

(2) "Firm" or "corporation" means an individual, corporation, partnership, or two or more persons having a joint or common interest in same venture, of storing grain for others and issuing a receipt for such grain or a scale ticket.

(3) "Department" means the Kentucky department of agriculture.

(4) "Stored grain" means grain received from a producer and unpaid for and held for a period longer than thirty days after delivery of the last load.

(5) "Board" means the state board of agriculture.

(6) "Owner" means a person whose grain is in storage and has been issued a grain storage receipt or a scale ticket.

(7) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts.

Section 15. KRS 251.430 is amended to read as follows:

Any person, firm, or corporation who shall accept grain for storage in this state shall first procure a license therefor from the department as required by the board before transacting such business. This shall not apply to the storage of grain by an establishment bonded and licensed under the provisions of a federal law to the extent that such stored grain is covered by a federal bond and law; otherwise, such establishments shall comply with the provisions of this chapter. Any establishment that has unpaid for grain 30 days after delivery of the last load by a producer shall be considered in the grain storage business. Such license shall expire on June 30, and shall be renewed annually. The fee for each license shall be *according to the following schedule* [~~$25 dollars~~], which shall be deposited in a trust and agency fund account in the State Treasury to be used for carrying out the provisions of KRS 251.410 to 251.510*:*

Total annual volume handled:

(a) Under two million (2,000,000) bushels, two hundred dollars ($200);

(b) Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);

(c) Six million (6,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or

(d) Over ten million (10,000,000) bushels, five hundred dollars ($500).

SECTION 16. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

(1) Each warehouseman shall file with the department a surety bond issued by a surety company authorized to transact business within the Commonwealth of Kentucky, payable to the Commonwealth with the commissioner as trustee. The amount of the bond for a warehouseman shall be established by rule of the department, but in no event shall the sum be less than twenty-five cents (25) per bushel of the total maximum bushel capacity of the warehouse or ten thousand dollars ($10,000), whichever is greater.

(2) The bond shall be conditioned on the faithful performance of duties as an operator and the full and unreserved compliance with the laws of this state and the rules of the department in relation thereto, so that the depositors holding warehouse receipts, contracts or other documented evidence of stored grain may receive the benefit of such bond. The aggregate liability of the surety to all depositors shall in no event exceed the sum of the bond. Neither the issuance of warehouse receipts by a warehouseman to himself for grain owned in whole or in part by him, the commingling of grain owned by the warehouseman with grain stored for others, or any violation by a warehouseman of this Act or of the rules and regulations issued by the department hereunder shall constitute a defense in any action brought upon any bond, and all such bonds shall so provide. Maximum capacity of a warehouse shall be determined by dividing the cubic volume of all bins by two thousand one hundred fifty and forty-two one hundredths (2,150.42) cubic inches. Such bond must be kept in force at all times while the operator is conducting a warehouse. Failure to keep the bond in force is cause for revocation of the license and subjects the warehouseman to the criminal penalty provided in this Act. Each bond shall contain a provision that it may not be cancelled by either the surety or the principal except upon sixty (60) days' notice in writing to the department at its offices in Frankfort. The notice will in no way affect the liability accrued or that which may accrue under the bond before the expiration of the sixty (60) days. The department may require additional bond where the assets of any warehouseman appear insufficient, when compared to his storage obligations, or to meet the bond requirements of the United States or any agency or corporation controlled by the United States when they have a contract for storage with the warehouseman. The additional bond shall be a dollar amount equal to the insufficiency. Failure to post such additional bond constitutes grounds for suspension or revocation of a license issued under this Act.

Section 17. KRS 251.440 is amended to read as follows:

Application for license shall set forth the name of the applicant, its principal officer, if a corporation, or the active members of a partnership if a partnership, and the location or locations of the principal office or place of business and the locations in this state at which applicant proposes to engage in this business. Application must be accompanied by a bond as set forth in *Section 16 of this Act* [~~KRS 251.450~~]. Such bond shall run to the state of Kentucky and be for the benefit of all persons storing grain in such warehouse. It shall be conditioned upon such warehouseman carrying combustion, fire, lightning, and tornado insurance sufficient to cover loss upon all stored grain in such warehouse, and the delivery of all stored grain or payment of the value thereof upon the surrender of the warehouse receipt or scale ticket, and upon the faithful performance by the warehouseman of all provisions of law relating to the storage and handling of grain by the warehouseman and the regulations of the Kentucky Department of Agriculture relative thereto.

Section 18. KRS 251.490 is amended to read as follows:

The department shall inspect the licensed elevator twice each year for the purpose of determining if grain is in storage or statements that show grain is accounted for, condition of storage facilities, and condition of grain in storage. A licensee that is short of facilities may store at another establishment provided that establishment is located in the state of Kentucky and is also licensed and the amount of grain stored is covered in the bond set forth in *Section 16 of this Act* [~~KRS 251.450~~]. A licensee that is short of facilities and/or grain may cover shortage by giving additional bond on 100% value of grain or depositing value of grain in a special account made jointly to the Kentucky State Board of Agriculture and the licensee. This money can only be released to buy the grain from the producers or replace the grain for the producer. All interest drawn on this account is payable to the licensee after his obligations are met.

SECTION 19. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

If irregularities are suspected, the department may issue subpoenas or subpoenas duces tecum to compel the attendance of witnesses or the production of books, documents and records anywhere in the state *in any hearing, affecting the authority or privilege granted by a license or to verify the accuracy of any books or records subject to inspection under the provisions of this Act.*

SECTION 20. A NEW SECTION OF KRS CHAPTER 251 IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by a decision or ruling of the board may obtain review thereof by filing a written petition in the circuit court of jurisdiction within thirty (30) days of said ruling or decision. A copy of said petition shall forthwith be delivered to the department and within sixty (60) days thereafter the department shall certify and file in the court a transcript of any record pertaining thereto, including a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the ruling or decision of the board except that the finding of the board as to facts, if supported by substantial evidence, shall be conclusive.

Section 21. KRS 251.990 is amended to read as follows:

(1) Any person who violates subsection (2) of KRS 251.180 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both.

(2) Any person who violates KRS 251.220 or 251.290 shall be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one (1) year, or both.

(3) Any person who violates KRS 251.240 shall be guilty of a felony and fined not more than one thousand dollars ($1,000) or imprisoned for not more than two (2) years, or both.

(4) Any person who violates KRS 251.300 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(5) Any person who violates the provisions of KRS 251.420 to 251.510 shall be fined two hundred dollars ($200) for the first offense. He shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and/or be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days for each subsequent offense. Each day of operation in violation of the provisions of KRS 251.420 to 251.510 shall constitute a separate offense.

(6) Any person who violates the bonding provisions of Section 13 or 16 of this Act, or who violates Section 5 of this Act shall have his license revoked.

(7) Any person who operates without a license as required by Section 13 or 16 of this Act shall be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each violation, or imprisoned for at least one (1) but not more than five (5) years, or both.

Section 22. This Act shall be known and may be cited as the Kentucky Grain Insurance Act.

Section 23. KRS 251.450, Form of bond -- Computation of amount, is repealed.

The Committee on Appropriations and Revenue reported **HB 486,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 486** is as follows:

HB 486, AN ACT relating to sexually abused, missing and exploited children, including those persons who commit offenses relating thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 through 9 of this Act:

(a) "Child" means a person under eighteen (18) years of age;

(b) "Child sexual abuse and exploitation" means harm to a child's health or welfare by any person, responsible or not for the child's health or welfare, which harm occurs or is threatened through nonaccidental sexual contact which includes violations of KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320 and 531.370;

(c) "Local task force" means an organization which meets the criteria described in Section 9 of this Act;

(d) "State board" means the state child sexual abuse and exploitation prevention board created in Section 3 of this Act;

(e) "Prevention program" means a system of direct provision of child sexual abuse and exploitation prevention services to a child, parent, or guardian, but shall not include research programs related to prevention of child sexual abuse and exploitation; and

(f) "Trust fund" means the child victims' trust fund established in the office of the state treasurer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state child sexual abuse and exploitation prevention board is created as an autonomous agency within the office of the attorney general.

(2) The state board may appoint an executive director of the state board to exercise the powers and carry out the duties of the state board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall be composed of the following members:

(a) The secretary of the human resources cabinet, the secretary of finance and administration cabinet, the superintendent of public instruction, the commissioner of the state police, and the attorney general, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The attorney general shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the attorney general. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employes. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The business which the state performs shall be conducted at a public meeting of the state board held in compliance with the open meetings act.

(2) A writing prepared, owned, used, in the possession of, or retained by the state board of the performance in an official function shall be made available to the public in compliance with the open records act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall do all of the following:

(a) Meet not less than twice annually at the call of the chairperson;

(b) One (1) year after the original appointment of the state board, and biennially thereafter, develop a state plan for the distribution of funds from the trust fund. In developing the plan, the state board shall review already existing prevention programs. The plan shall assure that an equal opportunity exists for establishment of prevention programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the house of representatives, to the clerk of the senate, and to the governor;

(c) Provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;

(d) Develop and publicize criteria for the receipt of trust fund money by eligible local task forces and eligible prevention programs;

(e) Review, approve, and monitor the expenditure of trust fund money by local task forces and prevention programs;

(f) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the prevention of child sexual abuse and exploitation; encourage professional persons and groups to recognize and deal with prevention of child sexual abuse and exploitation; encourage and coordinate the development of local task forces; make information about the prevention of child sexual abuse and exploitation available to the public and organizations and agencies which deal with problems of child sexual abuse and exploitation; and encourage the development of community prevention programs; and

(g) Establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the state board. In a year in which the biennial state plan is prepared, the evaluation shall be

coordinated with the preparation of the state plan.

(2) The state board may enter into contracts with public or private agencies to fulfill the requirements of this section. The state board shall utilize existing state resources and staff of participating departments whenever practicable.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may recommend to the governor and the general assembly changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of child sexual abuse and exploitation, improve coordination among state agencies that provide prevention services and improve the condition of children and parents or guardians who are in need of prevention program services.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may accept federal funds granted by the Congress or executive order for the purposes of this Act as well as gifts and donations from individuals, private organizations, or foundations. All funds received in the manner described in this section shall be transmitted to the state treasurer for deposit in the trust fund, and shall be made available for expenditure as appropriated by the general assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, for exclusively the following purposes, which are listed in the order of preference for expenditure:

(a) To fund a private nonprofit or public organization in the development or operation of a prevention program if at least all of the following conditions are met:

1. The appropriate local task force has reviewed and approved the program. This subparagraph does not apply if a local task force does not exist for the geographic area to be served by the program;

2. The organization demonstrates an ability to match through money fifty percent (50%) of the amount of any trust fund money received;

3. The organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance; and

4. Other conditions that the state board may deem appropriate.

(b) To fund local task forces; and

(c) To fund the state board created in Section 2 of this Act for the actual and necessary operating expenses that the board incurs in performing its duties.

(2) Authorizations for disbursement of trust fund money under subsection (1)(c) of this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund which is to disburse money under subsections (1)(a) and (b) of this section to encourage the direct provision of services to prevent child abuse and exploitation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

In making grants to a local task force, the state board shall consider the degree to which the local task force meets the following criteria:

(1) Has as its primary purpose the development and facilitation of a collaborative community prevention program in a specific geographical area. The prevention program shall utilize trained volunteers and existing community resources wherever practicable;

(2) Is comprised of local law enforcement and social services representatives and does not exclude any organization or person that the state board deems necessary;

(3) Demonstrates a willingness and ability to provide prevention program models and consultation to organizations and communities regarding prevention program development and maintenance;

(4) Demonstrates an ability to match through money fifty percent (50%) of the amount of any trust fund money received. The amount and types of in-kind services are subject to the approval of the state board; and

(5) Other criteria that the state board deems appropriate.

SECTION 10. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law, an employer may request from the justice cabinet records of all available convictions involving any sex crimes of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The cabinet shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(2) Any request for records under subsection (1) of this section shall be on a form approved by the cabinet, and the cabinet may charge a fee to be paid by the employer for the actual cost of processing the request.

(3) The cabinet shall adopt regulations to implement the provisions of this section.

(4) As used in this section "employer" means any organization specified by the attorney general which employs or uses the services of volunteers or paid employes in positions in which the volunteer or employe has supervisory or disciplinary power over a child or children.

(5) As used in this section "sex crime" means a conviction for a violation or attempted violation of KRS 510.040 to 510.150, 529.020 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.340 to 531.370, and the criminal offense of unlawful transaction with a minor. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

SECTION 11. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The justice cabinet shall establish within the cabinet a "Kentucky Missing Child Information Center", which shall serve as a central repository of and clearinghouse for information about Kentucky children believed to be missing and children from other states believed to be missing in Kentucky.

(2) The cabinet shall provide the missing child information center with computer equipment and a computer program which shall list and be capable of immediately retrieving the name and complete description of any missing Kentucky child referred to in subsection (1) of this section.

(3) The cabinet shall design the computer program so as to accept and generate complete information on a missing child, which information shall be retrievable by the child's name and date of birth, social security number, fingerprint classification, any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.

(4) Only law enforcement agencies shall be authorized to order missing child information entered into or retrieved from the missing child information center computer, except that a parent or guardian may order from the state police information on his or her child to be entered or retrieved when another law enforcement agency has refused to enter or retrieve such missing child information.

(5) The cabinet, through the Kentucky missing child information center, shall regularly issue flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the cabinet.

(6) For purposes of this Act, child shall mean any person under eighteen (18) years of age or any person certified or known to be mentally incompetent or disabled.

(7) A complete written report shall be issued annually by the cabinet, which report shall include statistical information on the numbers of missing children entered on the computer and located and recommendations for more accurate and timely reports and better usage of the computer.

(8) The cabinet may issue regulations in conformance with this section which provide for the orderly receipt of missing child information and requests for retrieval of missing child information.

(9) The Kentucky state police and each city, county, and urban county police department and each sheriff's office shall fingerprint children without charge on forms provided by the cabinet. The completed fingerprint forms shall be delivered to the child's parent or guardian and no copy of the fingerprint form shall be retained by the police department or sheriff's office.

SECTION 12. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Upon notification by a parent or guardian that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the justice cabinet and which shall include such information as the cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky missing child information center computer and shall cause the report to be entered into the national crime information center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) Within twenty-four (24) hours after a missing child is located and returned to his parent, guardian or to the state, if a ward of the state, the law enforcement agency which found or returned the missing child shall notify both the missing child information center and the national crime information center of that fact.

SECTION 13. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The child victims' trust fund is created as a separate fund in the office of the state treasurer. The fund shall be expended only as provided in this section.

(2) The state treasurer shall credit to the trust fund all amounts received for this purpose and any amounts received under Section 14 of this Act.

(3) The state treasurer shall invest trust fund money in the same manner as surplus funds are invested. Earnings shall be credited to the trust fund.

(4) Until the total amount of assets in the trust fund exceeds twenty million dollars ($20,000,000), not more than one-half of the money contributed to the trust fund each year, plus the earnings credited to the trust fund during the previous fiscal year, shall be available for disbursement upon the authorization of the state board as provided in Section 8 of this Act. After such time that the state treasurer certifies that the assets in the trust fund exceed twenty million dollars ($20,000,000), only the earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in Section 8 of this Act.

(5) Funds granted or funds received as gifts or donations to the child victims' trust fund shall be available for disbursement upon appropriation by the general assembly, and funds authorized for expenditure shall not be considered assets for purposes of subsection (4) of this section.

SECTION 14. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Effective for the tax year beginning January 1, 1984 and until the state treasurer certifies that the assets in the child victims' trust fund exceed twenty million dollars ($20,000,000), any individual who is entitled to a tax refund sufficient to make a designation under this section may designate that two dollars ($2.00) of his or her refund be credited to the child victims' trust fund. In the case of a joint return of husband and wife who are entitled to a tax refund under this Act sufficient to make a designation under this section, a designation may be made that four dollars ($4.00) of their refund be credited to the child victims' trust fund.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return.

(3) The proceeds derived from the tax designation shall be credited to the child victim's trust fund to be allocated and distributed as provided in Sections 1 through 9 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The department of education shall provide, by administrative regulation, for a program to identify and locate missing Kentucky school children who are enrolled in Kentucky public and private schools in kindergarten through grade twelve (12). Pursuant to such program, the department shall:

(a) Prepare forms to be forwarded, upon request, to the parents or guardians of missing Kentucky school children enrolled in kindergarten through grade twelve (12). The forms shall be designed to include such information as the department deems necessary for the identification of the missing child, including the child's physical description and last known location;

(b) Compile from the information on such forms a list of missing Kentucky school children, to be distributed monthly to all public and private schools admitting children to kindergarten through grade twelve (12). The list shall include the names of all such missing children, together with such other information as the department deems necessary; and

(c) Notify the appropriate local, state or federal law enforcement authority as soon as any additional information is obtained or contact is made with respect to a missing Kentucky school child.

(2) Every public and private school in this state shall notify the department of education at its earliest known contact with any child whose name appears on the department's list of missing Kentucky children.

(3) The department shall encourage each public and private school to engage in a program whereby the parents of children who are absent from school are notified in person or by telephone to verify if they know that the child is not attending school.

Section 16. KRS 346.010 is amended to read as follows:

The general assembly hereby declares that it serves a public purpose and is of benefit to the state to indemnify those needy residents of the Commonwealth of Kentucky who are innocent victims of criminal acts and who suffer bodily *or, in the case of a child, psychological* injury or death as a consequence thereof. Such persons or their dependents may thereby suffer disability, incur financial hardships and become dependent upon public assistance. To that end, it is the general assembly's intent that aid, care and support be provided by the state, as a matter of grace, for such victims of crime.

Section 17. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the crime victims compensation board.

(2) "Child" means any person less than eighteen (18) years of age.

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them.

(4)[~~(3)~~] "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal *physical, or in the case of a child, psychological* injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted.

(5)[~~(4)~~] "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person.

(6)[~~(5)~~] "Victim" means a resident of this state or the resident of a reciprocal state, who suffers personal *physical, or in the case of a child, psychological* injury or death from a criminal act in Kentucky as a result of:

(a) Criminally injurious conduct;

(b) A good faith effort to prevent criminally injurious conduct; or

(c) A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

Section 18. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical *or, in the case of a child, psychological* injury to or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall exclude therefrom the initial one hundred dollars ($100) of losses incurred and shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Provided, however, that any award made pursuant to this chapter to a victim sixty-five (65) years of age or older shall not exclude therefrom the initial one hundred dollars ($100) of losses incurred.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument and grave plot. In no event shall an award for funeral expenses exceed twenty-five hundred dollars ($2,500).

(6) Any award made under this chapter shall not exceed fifteen thousand dollars ($15,000).

SECTION 19. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:

(1) This Act applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to 510.150, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, and the criminal offense of unlawful transaction with a minor when the minor is induced, assisted or caused to engage in illegal sexual activity, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies only to the statements or testimony of that child.

(2) The recording of an oral statement of the child made before the proceeding begins is admissible into evidence if:

(a) No attorney for either party was present when the statement was made;

(b) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;

(c) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(d) The statement was not made in response to questioning calculated to lead the child to make a particular statement;

(e) Every voice on the recording is identified;

(f) The person conducting the interview of the child in the recording is present at the proceeding and available to testify or be cross-examined by either party;

(g) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence; and

(h) The child is available to testify.

If the electronic recording of the oral statement of a child is admitted into evidence under this section, either party may call the child to testify, and the opposing party may cross-examine the child.

(3) The court may, on the motion of the attorney for any party, order that the testimony of the child

be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.

(4) The court may, on the motion of the attorney for any party, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:

(a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;

(b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;

(c) Each voice on the recording is identified; and

(d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.

(5) If the court orders the testimony of a child to be taken under subsections (3) or (4) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken.

SECTION 20. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful transaction with a minor in the first degree when he knowingly induces, assists, or causes a minor to engage in illegal sexual activity except those offenses involving minors in KRS Chapter 531 and KRS 529.040(1)(b), illegal controlled substances activity, illegal gambling activity, or any other criminal activity.

(2) Unlawful transaction with a minor in the first degree is a Class D felony.

Section 21. KRS 530.070 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor *in the second degree* when:

(a) Acting other than as a retail licensee, he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or

(b) [~~He knowingly induces, assists, or causes a minor to engage in illegal sexual activity except those offenses involving minors in KRS Chapter 531 and KRS 529.040(1)(b), illegal controlled substances activity, illegal gambling activity or any other criminal activity; or~~

~~(c)~~] He knowingly induces, assists or causes a minor to become a habitual truant; or

(c)[~~(d)~~] He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.

(2) Unlawful transaction with a minor *in the second degree* is a Class A misdemeanor.

Section 22. KRS 532.040 is amended to read as follows:

When a person is convicted of an offense, other than a capital offense, the court, where authorized by KRS Chapter 533 *and where not prohibited by other provisions of applicable law*, may sentence such person to a period of probation or to a period of conditional discharge as provided in that chapter. A sentence to probation or conditional discharge shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with KRS Chapter 533, but for purposes of appeal shall be deemed to be a final judgment of conviction. In any case where the court imposes a sentence of probation or conditional discharge, it may also impose a fine as authorized by KRS Chapter 534.

SECTION 23. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for any of the following persons:

(a) A person convicted of violating KRS 510.040 to 510.150, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or the criminal offense of unlawful transaction with a minor when the minor is induced, assisted or caused to engage in illegal sexual activity, when the act is committed against a minor by the use of force, violence, duress, menace or threat of bodily harm;

(b) A person who, in committing any of the offenses enumerated in subsection (1)(a) of this section caused bodily injury to the minor;

(c) A person convicted of any of the offenses enumerated in subsection (1)(a) of this section and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in subsection (1)(a) of this section, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

(d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in subsection (1)(a) of this section;

(e) A person convicted of any of the offenses enumerated in subsection (1)(a) of this section and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in subsection (1)(a) of this section;

(f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in subsection (1)(a) of this section.

(g) A person who is convicted of committing any of the offenses enumerated in subsection (1)(a) of this section on more than one (1) minor at the same time or in the same course of conduct.

(h) A person who in committing any of the offenses enumerated in subsection (1)(a) of this section has substantial sexual conduct with a minor under the age of fourteen (14) years;

(i) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor. Position of authority includes, but is not limited to, the position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer.

(2) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the minor or the offender.

The Committee on Cities reported **HB 429** with Committee Amendment attached thereto, **HB 431** with Committee Substitute attached thereto, **HB 538** with Committee Substitute attached thereto, **HB 666, HB 742** with Committee Substitute attached thereto, **HB 753** with Committee Substitute attached thereto, **HB 762, HB 776,** and **HCR 94** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 429, AN ACT relating to transient taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission for the ensuing year. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three per cent (3%) of the rent for every occupancy of a suite, room or rooms, *or recreational vehicle space as defined in KRS 219.320(10),* charged by all persons, companies, corporations or other like or similar persons, groups or organizations doing business as motor courts, motels, hotels, inns, *recreational vehicle parks* or like or similar accommodations businesses. *The tax shall be imposed for occupancy of a recreational vehicle space, whether occupied by a recreational vehicle or by a tent.* Provision shall be made for the collection of the tax and the enforcement of the tax measure enacted.

(2) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, may be used to finance the cost of acquisition, construction, operation and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax may not be used to provide a subsidy in any form to any hotel, motel or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(3) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year in which the money is borrowed. The commission may pledge its securities to secure the repayment of any sum so borrowed.

(4) The fiscal court or legislative body of a city which establishes a commission pursuant to subsections (1) or (2) of KRS 83.340 is authorized and empowered to issue revenue bonds in accordance with procedures established in KRS chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(5) A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of this act, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

The Committee Amendment No. 1 to **HB 429** is as follows:

Amend printed copy of **HB 429** as follows:

On page 1, delete the new, underlined language on lines 11, 12 and 15, and on line 16, after the period and before the word "*The*" insert the following new sentence: "*In addition to imposing the transient room tax on motor courts, motels, hotels and inns, the local governing body or bodies may impose such tax upon rental house boats or recreational vehicle space as defined in KRS 219.320(10).*"

HB 431, AN ACT relating to law enforcement foundation program and professional fire fighters foundation program funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. Said premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the department of revenue, on such forms as it may require, all premium surcharge monies collected by it during its preceding monthly accounting period less any such monies returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. The funds derived from such premium surcharge, except as provided in subsection (2) of this section, shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the state treasury, and shall be paid monthly by the state treasurer into the volunteer fire department aid fund as provided in KRS 17.250.

(3) Within five (5) days after the end of each month, all insurance premium surcharge proceeds

deposited in the state treasury as set forth in subsection (1) of this section, shall be paid by the state treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. *Monies deposited to the law enforcement foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500. Money deposited to the professional fire fighters foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300.*

Section 2. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June and September thereafter, the department shall request in writing of the administrator of the professional fire fighters foundation program fund, which is established by KRS 95A.220, and of the administrator of the law enforcement foundation program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the department shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund.

(2) On or before the first day of each quarter, the department shall certify to the state treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the state treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax monies as set forth and in the manner as prescribed in subsections (1) and (3) of KRS 136.392.

(3) Monies deposited in the professional fire fighters foundation program fund's trust and agency account, and in the law enforcement foundation program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All monies remaining on deposit at the close of the state's fiscal year in the professional fire fighters foundation program fund's *trust and agency* account [~~and the law enforcement foundation program fund's account~~] and all earnings from investments made from monies in *this account* [~~these accounts~~], shall not lapse, and shall be used *only* for the purposes as specified *in KRS 95A.200 to 95A.300* [~~by law pertaining to the fund in which said deposits and earnings remain~~]. *All monies remaining on deposit at the close of the state's fiscal year in the law enforcement foundation program fund's trust and agency account, and all earnings from investments made from monies in this account, shall not lapse, and shall be used only for the purposes as specified in KRS 15.410 to 15.500.*

Section 3. KRS 15.430 is amended to read as follows:

(1) There is hereby established the law enforcement foundation program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 15.410 to 15.500, *and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than as prescribed by KRS 15.410 to 15.500.*

Section 4. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the law enforcement foundation program fund are insufficient to provide the amount of money required by KRS 15.460, the department of justice shall establish the rate of assistance to be paid to eligible local units of governments.

(2) Funds unexpended by the department of justice at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, *and shall be used solely for the purposes specified in KRS 15.410 to 15.500.*

Section 5. KRS 95A.220 is amended to read as follows:

(1) There is established the professional fire fighters foundation program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments in accordance with the provisions of KRS 95A.200 to 95A.300.

(2) All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 95A.200 to 95A.300, *and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than as prescribed in KRS 95A.200 to*

95A.300.

Section 6. KRS 95A.290 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the fund are insufficient to provide the amount of money required by KRS 95A.250, the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) The provisions of subsection (1) of this section shall not apply to amounts due the department of housing, buildings and construction pursuant to KRS 95A.240.

(3) Funds appropriated by the general assembly and unexpended by the commission at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 42.190, 95A.220 and 136.392 shall not lapse *as provided by KRS 45.229*, but shall be carried forward into the following fiscal year, *and shall be used solely for the purposes specified in KRS 95A.200 to 95A.300.*

The Committee Substitute to **HB 431** is as follows:

HB 431, AN ACT relating to law enforcement foundation program and professional fire fighters foundation program funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. Said premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the department of revenue, on such forms as it may require, all premium surcharge monies collected by it during its preceding monthly accounting period less any such monies returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. The funds derived from such premium surcharge, except as provided in subsection (2) of this section, shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the state treasury, and shall be paid monthly by the state treasurer into the volunteer fire department aid fund as provided in KRS 17.250.

(3) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the state treasury as set forth in subsection (1) of this section, shall be paid by the state treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. *Monies deposited to the law enforcement foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500. Money deposited to the professional fire fighters foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300.*

Section 2. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June and September thereafter, the department shall request in writing of the administrator of the professional fire fighters foundation program fund, which is established by KRS 95A.220, and of the administrator of the law enforcement foundation program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the department shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund.

(2) On or before the first day of each quarter, the department shall certify to the state treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the state treasurer shall pay into each fund's trust and agency

account its proportionate share of all deposited tax monies as set forth and in the manner as prescribed in subsections (1) and (3) of KRS 136.392.

(3) Monies deposited in the professional fire fighters foundation program fund's trust and agency account, and in the law enforcement foundation program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All monies remaining on deposit at the close of the state's fiscal year in the professional fire fighters foundation program fund's *trust and agency* account [~~and the law enforcement foundation program fund's account~~] and all earnings from investments made from monies in *this account* [~~these accounts~~], shall not lapse, and shall be used *only* for the purposes as specified *in KRS 95A.200 to 95A.300* [~~by law pertaining to the fund in which said deposits and earnings remain~~]. *All monies remaining on deposit at the close of the state's fiscal year in the law enforcement foundation program fund's trust and agency account, and all earnings from investments made from monies in this account, shall not lapse, and shall be used only for the purposes as specified in KRS 15.410 to 15.500.*

Section 3. KRS 15.315 is amended to read as follows:

The Kentucky law enforcement council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The attorney general of Kentucky, the commissioner of the department of state police, the dean of the school of police administration of the university of Louisville, the dean of the school of law enforcement of eastern Kentucky university, the president of the Kentucky peace officers sssociation, the president of the Kentucky association of chiefs of police, and the Kentucky president of the fraternal order of police, shall be ex officio members of the council, as full voting members of the council by reason of their office. The Kentucky special agent in charge of the federal bureau of investigation shall serve on the council in an advisory capacity only without voting privileges.

(2) Nine (9) members shall be appointed by the governor for terms of four (4) years from the following classifications: a city manager or mayor, one (1) Kentucky sheriff, a member of the Kentucky state bar association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he holds the office or employment by reason of which he was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one of the aforementioned groups or the holder of more than one of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity the governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council does not constitute a public office and no member shall be disqualified from holding public office by reason of his membership.

(5) The council shall be assigned to the justice cabinet for administrative purposes, and the cabinet shall provide personnel and technical assistance to the council.

Section 4. KRS 15.330 is amended to read as follows:

(1) The council is vested with the following functions and powers:

(a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement training courses required under KRS 15.310 to 15.510 and KRS 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;

(c) To prescribe qualifications for attendance and conditions for expulsion from such schools;

(d) To approve, to issue and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(e) To approve law enforcement officers and other persons as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(f) To inspect and evaluate schools at any time and to require of schools, instructors and persons approved or to be approved under the provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992, any information or documents;

(g) To recommend reasonable rules and regulations to the secretary to accomplish the purposes of KRS 15.310 to 15.510 and KRS 15.990 to 15.992;

(h) To administer the law enforcement foundation program fund as provided under KRS 15.410 to 15.510.

(i) To adopt bylaws for the conduct of its business not otherwise provided for.

(2) The provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992 do not apply to the department of state police.

Section 5. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties, of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky state police, any elected officer, sheriff, deputy sheriff, constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky law enforcement council as established by KRS 15.315.

Section 6. KRS 15.430 is amended to read as follows:

(1) There is hereby established the law enforcement foundation program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 15.410 to 15.500*, and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than as prescribed by KRS 15.410 to 15.500*.

Section 7. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the law enforcement foundation program fund:

(1) Employs one or more police officers;

(2) Pays every police officer a minimum annual salary of $4,350;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky law enforcement council, for employment of police officers on or after July 1, 1972; provided, however, that all police officers employed prior to July 1, 1972 shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers employed on or after July 1, 1972, to successfully complete a basic training course of at least 400 hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky law enforcement council; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least 40 hours' duration at a school certified or recognized by the Kentucky law enforcement council;

(6) Requires compliance with all provisions of law applicable to local police, including transmission of data to the bureau of criminal information and statistics as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the *council* [~~department of justice~~] to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the law enforcement foundation program fund unless the local police department actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the law enforcement foundation program fund until the local police department has substantially complied with subsections (6) and (7) of this section.

Section 8. KRS 15.450 is amended to read as follows:

(1) The *Kentucky law enforcement council* (~~secretary or his designated representative~~] shall administer the law enforcement foundation program fund pursuant to the provisions of KRS 15.410 to 15.510 and may issue such reasonable rules and regulations as[~~, in his judgment,~~] are necessary to carry out *its* [~~his~~] responsibilities under KRS 15.410 to 15.510.

(2) The *council* [~~secretary or his designated representative~~] shall determine which local units of government are eligible to share in the law enforcement foundation program fund and may withhold or terminate payments to any local unit that does not comply with the requirements of KRS 15.410 to 15.510 or the rules and regulations issued by the *council* [~~department of justice~~] under KRS 15.410 to 15.510.

(3) The council shall, from monies appropriated and accruing to the fund as provided under KRS

95A.220, reimburse the justice cabinet for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.

Section 9. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to local units shall be received, held and expended in accordance with the provisions of KRS 15.410 to 15.510, including the rules and regulations issued by the *council* [~~department of justice~~], and the following specific restrictions:

(1) Funds provided shall be used only as a cash salary supplement to police officers *and for administrative costs as provided in KRS 15.450*;

(2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(3), (4), and (5).

(3) Each police officer shall be entitled to receive the state supplement which his qualifications brought to the local unit;

(4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 10. KRS 15.480 is amended to read as follows:

The finance and administration cabinet, on the certification of the *council* [~~department of justice~~], shall draw warrants as specified hereinafter on the state treasurer for the amount of the law enforcement foundation program fund due each participating local unit. Checks shall be issued by the state treasurer and transmitted to the *council* [~~department of justice~~] for distribution to the proper officials of participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the rules and regulations of the *council* [~~department of justice~~]. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the law enforcement foundation program fund.

Section 11. KRS 15.490 is amended to read as follows:

(1) Each participating local unit of government shall submit reports to the *council* [~~department of justice~~] on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the *council* [~~department of justice~~] from requiring additional information or reports from participating local units of government;

(2) Local units of government shall include the additional compensation paid to each police officer from the law enforcement foundation program fund as a part of the officer's salary in determining all payroll deductions.

Section 12. KRS 15.500 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the law enforcement foundation program fund are insufficient to provide the amount of money required by KRS 15.460, the *council* [~~department of justice~~] shall establish the rate of assistance to be paid to eligible local units of governments.

(2) Funds unexpended by the *council* [~~department of justice~~] at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, *and shall be used solely for the purposes specified in KRS 15.410 to 15.500.*

Section 13. KRS 15.510 is amended to read as follows:

An appeal may be taken from any decision of the *council* [~~department of justice~~] to withhold or terminate payment from the law enforcement foundation program fund to any local unit of government. Appeals shall be taken to the circuit court of the county where the controversy originates.

Section 14. KRS 95A.220 is amended to read as follows:

(1) There is established the professional fire fighters foundation program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments in accordance with the provisions of KRS 95A.200 to 95A.300.

(2) All monies remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified in KRS 95A.200 to 95A.300, *and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than as prescribed in KRS 95A.200 to 95A.300.*

Section 15. KRS 95A.290 is amended to read as follows:

(1) If funds appropriated by the general assembly and otherwise made available to the fund are insufficient to provide the amount of money required by KRS 95A.250, the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) The provisions of subsection (1) of this section shall not apply to amounts due the department of housing, buildings and construction pursuant to KRS 95A.240.

(3) Funds appropriated by the general assembly and unexpended by the commission at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 42.190, 95A.220 and 136.392 shall not lapse *as provided by KRS 45.229*, but shall be carried forward into the following fiscal year, *and shall be used solely for the purposes specified in KRS 95A.200 to 95A.300.*

HB 538, AN ACT relating to housing authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

Housing authorities shall have all powers necessary and appropriate to engage in the maintenance and enhancement of adequate housing stock for low-income and moderate-income persons.

SECTION 2. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

In fixing the compensation of its employes, an authority may, but is not required to, utilize an incentive compensation arrangement whereby the employe may receive, subject to appropriate limits, additional compensation measured by the extent of the achievement by the authority of specified operating goals, which goals shall be established by the authority prior to the commencement of work by the employe on the matter with respect to which the goals were set.

SECTION 3. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

An authority may provide technical assistance to other authorities and to private and public developers and other builders of low-income and moderate-income housing stock in consideration of appropriate fees therefor. Such fees shall be established by the authority and shall, when received, be deemed to be funds provided under authority of this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

An authority may acquire by gift, device, bequest, lease, grant or purchase solely from the funds provided under authority of this chapter, an interest in, by means of a partnership, joint venture, or other co-ownership arrangement, low-income and moderate-income housing stock, whether of the character of a "housing project" within the meaning of this chapter or otherwise.

SECTION 5. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

The authority may operate, manage and control low-income and moderate-income housing stock other than "housing projects" within the meaning of KRS 80.010(1) either in their entirety or in conjunction with other persons, whether private or public. Although public housing projects shall not be constructed or operated for profit, or as a source of revenue, other activities undertaken by an authority to maintain or enhance the adequacy of housing stock for low-income and moderate-income persons shall not be subject to the limitation on construction or operation for profit, so long as any profits or any other net revenues generated thereby are utilized in the furtherance of the maintenance and enhancement of such adequate housing stock.

SECTION 6. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

Nothing contained in this chapter shall limit the power of an authority to participate in private and public developments not falling within the definition of "housing projects" as set forth in KRS 80.010, free from all the restrictions imposed by this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

Receipts of revenues of a city housing authority in excess of the amounts required to pay:

(1) The interest and principal on bonds issued under this chapter as payments fall due;

(2) The cost of maintaining, repairing, improving and operating its projects; and

(3) Reserves for depreciation as the housing authority deems necessary and proper may be applied to the engagement by the authority in activities for the maintenance and enhancement of adequate housing stock for low-income and moderate-income persons.

The Committee Substitute to **HB 538** is as follows:

HB 538, AN ACT relating to housing authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 80.020 is amended to read as follows:

(1) Cities of all classes may acquire, establish and operate, within their limits, low-cost housing projects, under the provisions of this chapter, for the purpose of providing adequate and sanitary living quarters for individuals or families. They may create city housing authorities, and they and the authorities created by them shall have all powers necessary and appropriate to engage in low-cost housing and slum clearance projects.

(2) Housing authorities may engage in the maintenance and enhancement of adequate housing stock for low-income and moderate-income persons as set forth in KRS Chapter 80.

Section 2. KRS 80.070 is amended to read as follows:

(1) An authority may employ technical experts and attorneys, and any other employes that it deems necessary. The authority shall fix the compensation of its employes. The legislative body of a city may prescribe limitations to the compensation of employes of the city authority and may prescribe whether or not an employe shall devote his entire time to his duties as an employe of the authority.

(2) In fixing the compensation of its employes, an authority may, but is not required to, utilize an incentive compensation arrangement whereby the employe may receive, subject to appropriate limits, additional compensation measured by the extent of the achievement by the authority of specified operating goals, which goals shall be established by the authority prior to the commencement of work by the employe on the matter with respect to which the goals were set.

SECTION 3. A NEW SECTION OF KRS CHAPTER 80 IS CREATED TO READ AS FOLLOWS:

An authority may provide technical assistance to other authorities in consideration of appropriate fees therefor. An authority may also provide technical assistance to public and private developers and other builders of low-income and moderate-income housing stock if such technical assistance is not readily available in the private sector at a cost that would make low-income and moderate-income housing projects feasible. Such technical assistance may be provided in consideration of appropriate fees therefor. Such fees shall be established by the authority and shall, when received, be deemed to be funds provided under authority of this chapter.

Section 4. KRS 80.140 is amended to read as follows:

(1) An authority may acquire by gift, devise, bequest, lease, grant or purchase, solely from the funds provided under authority of this chapter, lands, structures or interests in land necessary for the building of low-cost housing projects, upon terms, prices or considerations considered reasonable by the authority and agreed upon between the authority and the owner. Title to all property acquired by the authority shall be taken in the corporate name of the authority.

(2) An authority may acquire by gift, devise, bequest, lease, grant or purchase solely from the funds provided under authority of this chapter, an interest in, by means of a partnership, joint venture, or other co-ownership arrangement, low-income and moderate-income housing stock.

Section 5. KRS 80.180 is amended to read as follows:

(1) The authority shall operate, manage and control low-cost housing projects in their entirety, fix the rate of rentals, and establish bylaws, rules and regulations for the use and operation of the projects not inconsistent with the provisions of this chapter. The legislative body of a city may prescribe by ordinance penalties for the violation of bylaws, rules and regulations of a project located within the city.

(2) The authority may operate, manage and control low-income and moderate-income housing stock not within the meaning of KRS 80.010(1) either in their entirety or in conjunction with other persons, whether private or public. Although public housing projects shall not be constructed or operated for profit, or as a source of revenue, other activities undertaken by an authority in conformance with KRS Chapter 80 to maintain or enhance the adequacy of housing stock for low-income and moderate-income persons shall not be subject to the limitation on construction or operation for profit, so long as any profits or any other net revenues generated thereby are utilized in the furtherance of the maintenance and enhancement of adequate low-income and moderate-income housing stock.

Section 6. KRS 80.200 is amended to read as follows::

(1) An authority may rent or lease the dwelling accommodations in a housing project only to persons or families who lack the amount of income deemed necessary by the authority to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(2) An authority may rent or lease to a tenant dwelling accommodations consisting only of the number of rooms that it deems necessary to provide safe and sanitary accommodations to the proposed occupants without overcrowding.

(3) The dwellings in any housing project shall be available solely for families of low income. Income limits for occupancy and rents shall be fixed by the authority after taking into consideration:

(a) The family size, composition, age, physical handicaps, and other factors which might affect the rent-paying ability of the family, and

(b) The economic factors which affect the financial and solvency of the housing project.

(4) The authority shall issue regulations establishing eligibility requirements, consistent with the purposes and objectives of this section, for admission to and continued occupancy in its projects.

(5) Nothing contained in subsections (1), (2), (3) and (4) of this section shall limit the power of an authority to vest in an obligee of the authority the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section.

(6) An authority may participate in private and public developments not falling within the definition of "housing projects", as set forth in KRS 80.010, except that:

(a) An authority may not purchase, divide or subdivide land except as provided in KRS Chapter 80 or as set forth in Section 4 of this Act; and

(b) An authority may not develop, improve construct upon, sell or resell any real property except as provided in this chapter or as set forth in in this Act.

Section 7. KRS 80.240 is amended to read as follows:

(1) The rents and other revenues of a city housing authority shall be applied; first to pay the interest and principal of the bonds issued under KRS 80.230 as payments fall due; next, to pay the costs of maintaining, repairing, improving and operating its projects; next, to create such reserve for depreciation as the housing authority deems necessary and proper. The excess, if any, of the rents received during any annual period may be applied to the prepayment of the obligations of the housing authority or may be placed in a special fund for the purpose of paying the principal and interest of the obligations as they become due.

(2) Receipts of revenues of a city housing authority in excess of the amounts required to pay:

(a) The interest and principal on bonds issued under this chapter as payments fall due;

(b) The cost of maintaining, repairing, improving and operating its projects; and

(c) Reserves for depreciation as the housing authority deems necessary and proper may be applied to the engagement by the authority in activities for the maintenance and enhancement of adequate housing stock for low-income and moderate-income persons, as defined in KRS Chapter 80.

HB 666, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy or mill, or from one market, warehouse, dairy or mill to another market, warehouse, dairy or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection; or

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles to the extent such are used or operated in transportation programs pursuant to grants of funds in furtherance of and governed by the provisions of Title III and Title VII of the federal Older Americans Act of 1965, Public Law 89-73, including all amendments thereto, and to the extent such are used or operated to transport persons whose fares are reimbursed or paid through programs in furtherance of and governed by the provisions of Title XIX and Title XX of the federal Social Security Act, including all amendments thereto;

(5) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(6) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(7) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(8) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(9) Motor vehicles used as ambulances in transporting wounded, injured, or sick persons or animals;

(10) Motor vehicles used by transit authorities as created and defined in KRS chapter 96A except as required by KRS 96A.170. *This exemption shall include vehicles owned and operated by parties to subcontracts with the transit authority, but only while the vehicles are engaged in duties under the subcontracts*;

(11) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(12) Motor vehicles used by a bank to transport cash letters, data processing material, instruments or documents between any of the bank's facilities and the facilities of any other bank, regardless of the ownership of any of said cash letters, data processing material, instruments or documents; provided, however, that such transportation is incidental to such bank's primary banking business.

HB 742, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.277 is amended to read as follows:

All subdivision of land shall receive commission approval;

(1) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(2) No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer, sale or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.

(3) Any street or other public ground which has been dedicated shall not be accepted by the legislative body until it has received recommendations from the planning commission.

(4) Division of land into lots of five (5) acres, or more, which does not involve a new street shall not be deemed a subdivision and shall not be subject to the provisions of this section.

Section 2. KRS 100.253 is amended to read as follows:

(1) The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

(2) The board of adjustments shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of

adjustments may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

(3) Any use which is a nonconforming use and has been in existence for a period of ten (10) years shall be deemed approved as a valid nonconforming use.

The Committee Substitute to **HB 742** is as follows:

HB 742, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.277 is amended to read as follows:

All subdivision of land shall receive commission approval;

(1) No person or his agent shall subdivide any land, before securing the approval of the planning commission of a plat designating the areas to be subdivided, and no plat of a subdivision of land within the planning unit jurisdiction shall be recorded by the county clerk until the plat has been approved by the commission and the approval entered thereon in writing by the chairman, secretary, or other duly authorized officer of the commission.

(2) No person owning land composing a subdivision, or his agent, shall transfer or sell or agree to sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the planning commission and has been recorded. Any such instrument of transfer, sale or contract shall be void and shall not be subject to be recorded, but all rights of such purchaser to damages are hereby preserved. The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have.

(3) Any street or other public ground which has been dedicated shall not be accepted by the legislative body until it has received recommendations from the planning commission.

(4) Division of land into lots of five (5) acres, or more, which does not involve a new street shall not be deemed a subdivision and shall not be subject to the provisions of this section; provided, however, that no lot shall be more than four (4) times as deep as it has road frontage.

Section 2. KRS 100.253 is amended to read as follows:

(1) The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

(2) The board of adjustments shall not allow the enlargement or extension of a nonconforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustments may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.

(3) Any use which is a nonconforming use and has been in existence for a period of ten (10) years shall be deemed approved as a valid nonconforming use.

(4) The provisions of this Act shall not apply to counties containing a city of the first class, a city of the second class, or urban-county government.

HB 753, AN ACT relating to disability plans for employes of cities and counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United Stated department of health, education and welfare except as provided in subsection (3) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employes, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, urban-county government or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employes and by the city, county, urban-county government or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, urban-county government or agency. Each city, county, urban-county government or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) Any city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons and which provides hospitalization benefits or health maintenance organization coverage to its employes, shall annually give its employes an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside; except that if any city, county, urban-county government or agencies of any city, county, urban-county government or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside, the city, county, urban-county government or agencies of the city, county, urban-county government or any other political subdivision of the state may annually give its employes an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons, for any other hospitalization benefit shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of *cancer,* heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain, *exposure to a carcinogen* or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(6) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

The Committee Substitute to **HB 753** is as follows:

HB 753, AN ACT relating to disability plans for employes of cities and counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 79.080 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section, means a health maintenance organization as defined in KRS 304.38-030, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is qualified under the requirements of the United Stated department of health, education and welfare except as provided in subsection (3) of this section.

(2) Cities of all classes, counties and urban-county governments and the agencies of cities, counties and urban-county governments are authorized to establish and operate plans for the payment of retirement, disability, health maintenance organization coverage, or hospitalization benefits to their employes, and health maintenance organization coverage or hospitalization benefits to the immediate families of their employes. Such a plan may require employes to pay a percentage of their salaries into a fund from which coverage or benefits are paid, or the city, county, urban-county government or agency may pay out of its own funds the entire cost of the coverage or benefits. A plan may include a combination of contributions by employes and by the city, county, urban-county government or agency into a fund from which coverage or benefits are paid, or it may take any form desired by the city, county, urban-county government or agency. Each city, county, urban-county government or agency may make rules and regulations and do all other things necessary in the establishment and operation of such a plan.

(3) Any city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons and which provides hospitalization benefits or health maintenance organization coverage to its employes, shall annually give its employes an option to elect either standard hospitalization benefits or membership in a qualified health maintenance organization which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside; except that if any city, county, urban-county government or agencies of any city, county, urban-county government or any other political subdivision of the state which does not have a qualified health maintenance organization engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside, the city, county, urban-county government or agencies of the city, county, urban-county government or any other political subdivision of the state may annually give its employes an option to elect either standard hospitalization benefits or membership in a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five of such employes reside. Any premium due for health maintenance organization coverage over the amount contributed by the city, county, urban-county government or other political subdivision of the state which employs more than twenty-five persons, for any other hospitalization benefit shall be paid by the employe.

(4) If an employe moves his place of residence or employment out of the service area of a health maintenance organization, under which he has elected coverage, into either the service area of another health maintenance organization or into an area of the state not within a health maintenance organization service area, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization into which service area he moves or is transferred or to elect standard hospitalization coverage offered by the employer.

(5) Any plan adopted shall provide that any officer or member of a paid fire or police department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, is presumed to have contracted his disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(6) Any plan adopted shall provide that any member of a paid fire department who has completed five (5) years or more as a member of the department, but who is unable to perform his duties by reason of cancer, is presumed to have contracted his disease while on active duty as a result of exposure to a carcinogen, and shall be retired by the pension board under terms of the pension system of which he is a member, if member passed an entrance physical examination and was found to be in good health as required.

(7) The term "agency" as used herein shall include boards appointed to operate waterworks, electric plants, hospitals, airports, housing projects, golf courses, parks, health departments, or any other public project.

HB 762, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) It is hereby found:

(a) That there exists in many cities in this Commonwealth blighted and deteriorated properties in neighborhoods which cause the deterioration of those and contiguous neighborhoods and constitute a serious and growing menance, which is injurious to the public health, safety, morals and general welfare of the residents of the Commonwealth, and are beyond remedy and control solely by regulatory process in the exercise of the police power;

(b) That the existence of blighted and deteriorated properties within neighborhoods, and the growth and spread of blight and deterioration or the threatened deterioration of other neighborhoods and properties:

1. Contribute substantially and increasingly to the spread of disease and crime, and to losses by fire and accident;

2. Necessitate expensive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;

3. Constitute an economic and social liability;

4. Substantially impair or arrest the sound growth of the community;

5. Retard the provision of decent, safe, and sanitary housing accommodations;

6. Depreciate assessable values;

7. Cause an abnormal exodus of families from these neighborhoods; and

8. Are detrimental to the health, the well-being and the dignity of many residents of these neighborhoods;

(c) That this menace cannot be effectively dealt with by private enterprise without the aids provided herein;

(d) That the benefits which would result from eliminating the blighted properties that cause the blight and deterioration of neighborhoods will accrue to the inhabitants of the neighborhoods in which these conditions exist and to the inhabitants of this Commonwealth generally.

(2) It is hereby declared:

(a) That it is the policy of this Commonwealth to protect and promote the health, safety, and welfare of the people of the Commonwealth by eliminating the blight and deterioration of neighborhoods through the elimination of blighted and deteriorated properties within these neighborhoods;

(b) That the elimination of such blight and deterioration and the preparation of the properties for sale or lease, for development or redevelopment, constitute a public use and purpose for which public money may be expended and private property acquired and are governmental functions in the interest of the health, safety, and welfare of the people of the Commonwealth;

(c) That the necessity in the public interest for the provisions enacted herein is hereby declared to be a legislative determination.

SECTION 2. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

Unless the context otherwise requires:

(1) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

(a) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the city housing, building, plumbing, fire or related codes; or

(b) Which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures; or

(c) Which because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing code of the city, has been designated by the department responsible for enforcement of the code as unfit for human habitation; or

(d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property; or

(e) From which the utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use; or

(f) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin; or

(g) Which has been tax delinquent for a period of at least three (3) years; or

(h) Which has not been rehabilitated within the time constraints placed upon the owner by the

appropriate code enforcement agency.

(2) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development and disposal or any combination of these, of a property in the preparation of such property for residential, and related uses as may be appropriate or necessary.

(3) "Residential and related use" shall mean residential property for sale or rental and related uses; including, but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots.

(4) "Vacant property review commission" means a commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) If the legislative body of a city finds and declares that there exists in the city blighted or deteriorated properties and that there is need in the city for the exercise of powers, functions and duties conferred by this Act, the legislative body may adopt the provisions of this Act by ordinance.

(2) The ordinance adopting the provisions of this Act shall also establish a vacant property review commission which shall certify properties as blighted or deteriorated to the legislative body. The ordinance shall specify the duties of, the number of members that will serve on, the requirements of membership, and the makeup of the commission. Members shall be appointed by the mayor and approved by the legislative body. No officer or employe of the city whose duties include enforcement of city housing, building, plumbing, fire or related codes shall be appointed to the commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

A city may acquire by, eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to this Act, and shall have the the power to hold, clear, manage or dispose of property so acquired, for residential and related use pursuant to the provisions of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

(1) The legislative body shall not institute eminent domain proceedings pursuant to this Act unless the commission has certified that the property is blighted or deteriorated. A property which has been referred to the commission by a city agency as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission has determined:

(a) That the owner of the property or designated agent has been sent an order by the appropriate city agency to eliminate the conditions which are in violation of local codes or law;

(b) That the property is vacant;

(c) That the property is blighted and deteriorated;

(d) That the commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice; and

(e) That, in cities that are within a planning unit established pursuant to KRS Chapter 100, the planning commission has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan.

(2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.

(3) The commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city under this Act. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

(4) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

SECTION 6. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

The legislative body of the city may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the commission if it finds:

(1) That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

(2) That such property is likely to continue to deteriorate unless corrected;

(3) That the continued deterioration of such property may contribute to the blighting or deterioration

of the area immediately surrounding the property; and

(4) That the owner of such property has failed to correct the deterioration of the property.

SECTION 7. A NEW SECTION OF KRS CHAPTER 99 IS CREATED TO READ AS FOLLOWS:

No officer or employe of the city, or of the vacant property review commission, who in the course of his duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated. If any such officer or employe owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he shall immediately disclose, in writing, such interest to the commission and to the legislative body and such disclosure shall be entered in the minutes of the commission and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employe for any property or interest therein acquired by the city from such officer or employe unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body.

HB 776, AN ACT relating to volunteer firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 75 IS CREATED TO READ AS FOLLOWS:

The minimum age requirement for any volunteer firefighter is hereby established to be eighteen (18) years.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

The minimum age requirement for any volunteer firefighter is hereby established to be eighteen (18) years.

HCR 94, A CONCURRENT RESOLUTION establishing a Municipal Pension Study Commission.

WHEREAS, a Municipal Pension Study Commission studied problems of city pension system funding and administration during the 1982-83 interim; and

WHEREAS, the Commission discovered that awareness of pension funding needs and proper administration of city pension systems is growing among city officials; and

WHEREAS, in spite of improvements, city pension funding problems persist in a number of Kentucky cities; and

WHEREAS, acceptable solutions to the funding problems of city pensions systems have not yet been found or adopted; and

WHEREAS, the problems of municipal pension funding and administration merit continued monitoring and a continuing search for acceptable solutions;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of the actuarial soundness of Kentucky's city pension systems.

Section 2. A Municipal Pension Study Commission shall be appointed by the Legislative Research Commission to guide and assist in the study. The Commission shall be comprised of:

1. One Senator who is a member of the Senate Cities Committee;
2. One Representative who is a member of the House Cities Committee;
3. Two elected city officials nominated by the Kentucky Municipal League;
4. One person nominated by the Kentucky State Lodge of the Fraternal Order of Police;
5. One person nominated by the Associated Professional Firefighters of Kentucky;
6. The General Manager of Kentucky Retirement Systems or his designee.

The chairman of the Commission shall be the member of the Senate Cities Committee or of the House Cities Committee, or they may serve as co-chairmen.

Section 3. The Municipal Pension Study Commission shall analyze recent actuarial data, and other data as may be available and useful. They shall develop a report for the Legislative Research Commission on the actuarial soundness and administration of city pension systems, and shall make recommendations for improving the financial position and administration of these systems.

Section 4. Commission members not otherwise compensated or reimbursed for their time and expenses shall be reimbursed for their necessary and reasonable expenses.

Section 5. The Municipal Pension Study Commission shall present its report to the Interim Joint Committee on Cities for review prior to submitting their final report to the Legislative Research Commission no later than September 1, 1985.

Section 6. Staff services to be utilized in completing this study are estimated to cost $9,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee on Education reported **SB 154** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 154, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.010 is amended to read as follows:

(1) The department of education shall consist of the superintendent of public instruction, who shall be the executive officer of the department, the *office* [~~bureau~~] of instruction, the *office* [~~bureau~~] of education for exceptional children, the *office of local services* [~~bureau of administration and finance for local school districts~~], the *office* [~~bureau~~] of vocational education, the *office of vocational rehabilitation* [~~bureau of rehabilitation services~~], *the office of budget management, the office of legal services, the office of personnel management, the office of administrative services, the office of resource management, the office of federal programs, the office of research and planning,* and the state board of education.

(2) The superintendent of public instruction shall appoint a deputy superintendent *for programs* [~~of public instruction~~] who is authorized to act in the absence of the superintendent of public instruction. *The superintendent shall also appoint a deputy superintendent for administration, a deputy superintendent who shall be secretary to the state board of education, a chief executive assistant to the superintendent, a special assistant for public affairs responsible for press relations and an ombudsman responsible for coordination and referral of correspondence from the public as it relates to departmental services and functions.*

(3) The superintendent of public instruction shall have general supervision of all assistants, agents and employes. He shall be responsible for implementing policies promulgated by the state board of education. He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

(4) All employes shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries.

(5) The department of education shall exercise all the administrative functions of the state in relation to the management and control of the public common schools, vocational education, vocational rehabilitation, the Kentucky school for the blind and the Kentucky school for the deaf, and may exercise the general powers and functions relating to state vocational schools and area vocational educational centers for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed. The department of education shall exercise also those powers relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

(6) The Kentucky school for the blind advisory board, the Kentucky school for the deaf advisory board, *the state board of education, the Kentucky council on teacher education and certification, the state advisory committee for educational improvement* and the state textbook commission are *administratively attached to the office of superintendent* [~~included in the department of education and constitute divisions thereof~~], but each shall continue to exercise all the functions conferred upon it by law.

(7) The state department of education in the operation and management of its schools and the programs at these schools shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the state department of education.

(8) The department of education is hereby designated as the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education, vocational education, rehabilitation services and adult education.

Section 2. KRS 157.220 is amended to read as follows:

(1) The state department of education is hereby designated as the agency for cooperation with the state and federal governments, the non-public school programs and local schools of Kentucky in carrying out the provisions of KRS 157.200 to KRS 157.280. The state board of education shall make necessary rules and regulations in keeping with the provisions of KRS 157.200 to KRS 157.280 for their proper administration, including but not limited to establishment of classes, eligibility and admission of pupils, the curriculum, class size limitations, housing, special equipment and instructional supplies.

(2) The state department of education is authorized to receive contributions and donations that may be made to carry out the provisions and requirements of KRS 157.200 to KRS 157.280.

(3) Local supervision of special educational facilities for exceptional children shall be approved by the *office* [~~bureau~~] of education for exceptional children according to rules and regulations approved by the state board of education.

Section 3. KRS 157.221 is amended to read as follows:

(1) The state board of education shall create *an "office* [~~a "bureau~~] of education for exceptional children" in the state department of education, separate from any other existing *office* [~~bureau~~], to supervise and direct a state program for exceptional children of this Commonwealth.

(2) The state board of education shall establish appropriate divisions within the *office* [~~bureau~~] of education for exceptional children.

(3) The state board of education, upon recommendation of the superintendent of public instruction shall adopt rules and regulations for the operation of the *office* [~~bureau~~] and generally carry out the program provided for in KRS 157.200 to 157.290, 157.360, and 167.210 to 167.240.

(4) The superintendent of public instruction shall appoint a head of the *office* [~~bureau~~] and necessary assistants to carry out the work of the *office* [~~bureau~~].

Section 4. KRS 157.224 is amended to read as follows:

(1) The Commonwealth of Kentucky is committed to providing a comprehensive educational program for its exceptional school age children. The *office* [~~bureau~~] of education for exceptional children, through KRS 157.221, coordinates, directs, and monitors that program. State direction and implementation of a statewide exceptional education program is manifested in the biennial appropriation of funds to finance a particular number of such classroom units. The rate at which new exceptional units are funded indicates the state's ability to assure a quality educational opportunity for appropriate students in existing, locally operated, exceptional class units.

(2) All county and independent boards of education shall operate special education programs to the extent required by, and pursuant to, a plan which has been approved by the state board of education. If any county or independent board of education fails to operate and implement special education programs in accordance with an aforesaid plan, the application of said county or independent board of education for minimum foundation payments may be considered insufficient.

Section 5. KRS 158.600 is amended to read as follows:

(1) It is the intention of the general assembly in enacting KRS 158.605 to 158.620 and 157.360 to provide experimental or classroom unit programs of instruction for gifted and talented students in the division of program development, *office* [~~bureau~~] of instruction of the department of education.

(2) State direction and implementation of a statewide gifted and talented education program is manifested in the biennial appropriation of funds to finance such classroom units or experimental programs. The rate at which gifted and talented units or experimental programs are funded indicates the state's ability to assure a quality educational opportunity for appropriate students.

Section 6. The General Assembly confirms the reorganization of the Department of Education by Executive Order 83-73 issued on December 31, 1983 to the extent that Executive Order 83-73 is not otherwise confirmed by this Act. Such confirmation shall include but is not limited to the following:

(1) Subdivision of the Office of Instruction into the following major organizational units:
(a) Division of Accreditation
(b) Division of Teacher Education and Certification
(c) Division of Program Development
(d) Division of Student Services
(e) Division of Curriculum Services
(f) Division of Compensatory Education
(g) Division of Instructional Support (formerly in the Office of Federal Programs)
(h) Division of School Improvement
(2) Subdivision of the Office of Vocational Education into the following major organizational units:
(a) Division of Staff Development
(b) Division of Support Services
(c) Division of Program Services (with functions and duties formerly provided by the Division of Postsecondary Program Management and the Division of Secondary Program Management which were both abolished)

(d) Division of School Services

(e) Division of Agency Relations (formerly the Division of Liaison with Higher Education in the Office of the Superintendent)

(f) Division of Assistant for Policy and Budget

(3) Subdivision of the Office of Vocational Rehabilitation into the following major organizational units:

(a) Division of Support Services

(b) Division of Field Services

(c) Division of Program Development

(d) Division of Eastern Kentucky Comprehensive Rehabilitation

(4) Subdivision of the Office of Education for Exceptional Children into the following major organizational units:

(a) Division of Field Services

(b) Division of Categorical Programs

(c) Division of Support Services

(d) Division of the Kentucky School for the Blind

(e) Division of the Kentucky School for the Deaf

(5) Subdivision of the Office of Local Services into the following major organizational units:

(a) Division of Buildings and Grounds

(b) Division of Pupil Transportation

(c) Division of School Food Services (formerly within the Office of Resource Management)

(d) Division of Textbook Services

(e) Division of Pupil Attendance

(f) Division of School Management and Audit

(g) Division of Insurance Services (formerly within the Office of Personnel Management)

(6) Subdivision of the Office of Personnel Management into the following major organizational units:

(a) Division of Personnel Services

(b) Division of Equal Education Opportunities

(7) Subdivision of the Office of Administrative Services into the following major organizational units:

(a) Division of Computer Services

(b) Division of Purchasing (formerly within the Bureau of Administration and Finance)

(c) Division of Accounts (formerly within the Bureau of Administration and Finance)

(8) Subdivision of the Office of Resource Management into the following major organizational units:

(a) Division of Facilities Management

(b) Division of Surplus Property

(c) Division of Internal Services (formerly within the Bureau of Administration and Finance)

(9) Subdivision of the Office of Federal Programs into the following major organizational unit: Division of Adult Education

(10) Subdivision of the Office of Budget Management (replacing the Division of Budget Management formerly within the Bureau of Administration and Finance) into the following major organizational unit: Division of Budget Analysis

(11) Subdivision of the Office of Research and Planning into the following major organizational units:

(a) Division of Planning

(b) Division of Research and Evaluation

(c) Division of Media Services

(d) Division of Recognition

(12) Authorization of the Superintendent of Public Instruction to establish organizational units and sub-units under organizational units enumerated above, and to assign duties, functions, responsibilities, records, equipment, personnel, personnel positions, and supporting budgets as necessary to carry out the statutory and constitutional functions of the Department of Education.

The Committee on Natural Resources and Environment reported **HB 112** with Committee Amendment attached thereto, **HB 247, HB 264** with Committee Substitute attached thereto, **HB 269** with Committee Amendment attached thereto, **HB 679,** and **HB 790** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 112, AN ACT relating to state parks and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The department of parks shall acquire the land and water resources in Pike County, Kentucky needed to establish a state park to be called Fishtrap Lake State Park. The department shall create Fishtrap Lake State Park in order to develop the recreational and educational potential of the area and to help preserve the environmental value of the site.

Section 2. To carry out the purposes of this Act, there is appropriated to the department of parks out of the General Fund in the State Treasury the sum of $350,000 dollars for fiscal year 1984-85.

The Committee Amendment No. 1 to **HB 112** is as follows:

Amend printed copy of **HB 112** on page 1, following line 13, by inserting the following:

SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

The department of parks shall acquire the land and water resources in Johnson County, Kentucky needed to establish a state park to be called Paintsville Lake State Park. The department shall create Paintsville Lake State Park in order to develop the recreational and educational potential of the area and to help preserve the environmental value of the site.

Section 4. To carry out the purposes of Section 3 of this Act, there is appropriated to the department of parks out of the General Fund in the State Treasury the sum of $350,000 dollars for fiscal year 1984-85.

And on page 1, line 10, by inserting after the word "purposes" the words "of Section 1".

HB 247, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.470 is amended to read as follows:

(1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional civil or mining engineer registered in Kentucky *or by a professional land surveyor registered in Kentucky pursuant to KRS 322.420.* KRS 322.340 requires that plats, etc. be stamped with their seal. The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by the mining laws of this state, and covers the period ending ...., ...
Certifying Agent

"Acknowledged before me, a ...., this .... day of ....."

....
....SEAL

(2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

HB 264, AN ACT relating to water resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

At the discretion of the authority, any project to be financed under the provisions of KRS 151.100 to 151.460 and 151.990 may, in anticipation of permanent financing with revenue bonds, be provided interim financing in like manner and under such alternative provisions as set forth for interim financing by the state property and buildings commission under KRS 56.513.

Section 2. KRS 151.100 is amended to read as follows:

As used in KRS 151.100 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

(1) The word "authority" shall mean the water resources authority of Kentucky;

(2) The word *"cabinet"* [~~"department"~~] shall mean the [~~department for~~] natural resources and environmental protection *cabinet*;

(3) The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;

(4) The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;

(5) The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;

(6) The word "floodway" shall mean that area of a stream or watercourse necessary to carry off flood water as determined by the commissioner;

(7) The word "floodplain" shall mean the area in a watershed that is subject to inundation;

(8) The word "watershed" shall mean all of the area from which all drainage passes a given point downstream;

(9) The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;

(10) The word "water *resources* [~~resource~~] project" or "project" shall mean any *structural or nonstructural study, plan, design,* construction, development, improvement or any other activity *including programs for management,* intended to conserve and develop the water resources of the Commonwealth *and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures*;

(11) The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water;

(12) The word "dam" shall mean any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either (1) is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or (2) has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;

(13) The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(14) "Secretary" shall mean the secretary of the [~~department for~~] natural resources and environmental protection *cabinet*;

(15) "Authorized representative" shall mean an individual specifically authorized by the commissioner to act in his behalf;

(16) The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;

(17) "Owner" shall mean any person who owns an interest in, controls, or operates a dam.

Section 3. KRS 151.330 is amended to read as follows:

(1) The governor, the secretary for natural resources and environmental protection, the secretary of the finance and administration cabinet, the secretary for human resources or his designee, the commissioner of economic development, the commissioner of agriculture, the secretary of the commerce cabinet, the attorney general, the secretary of the transportation cabinet, the commissioner of fish and wildlife resources, the commissioner of parks, and their respective successors in office, and two (2) members of the flood control advisory commission shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth by the name of "the water resources authority of Kentucky" with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their service in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as such members.

(3) Seven (7) members of the authority shall constitute a quorum for the transaction of business. The governor shall, by virtue of his office, be the chairman of the authority. The secretary for natural resources and environmental protection shall, by virtue of his office, be the vice-chairman of the authority. The secretary of the finance and administration cabinet shall, by virtue of his office, be the treasurer of the

authority.

(4) The authority shall meet *semi-annually* [~~quarterly~~] or more often if necessary.

(5) An executive board consisting of five (5) members of the authority or their designees, selected by the governor with the consent of the authority, shall meet as needed but not less than quarterly and at least one (1) month in advance of authority meetings. The board shall consider and discuss matters to be placed before the authority and shall set an agenda for authority meetings.

Section 4. KRS 151.340 is amended to read as follows:

(1) Administrative details and other activities of the authority shall be administered by the executive director of the authority and he shall maintain correct, complete records of all the authority's transactions and proceedings which shall constitute public records open to inspection at reasonable times. The executive director of the authority shall be *appointed by the authority for a term established at the authority's discretion* [~~the director of the division in the department responsible for administering the provisions of this chapter~~].

(2) The executive director shall:

(a) Prepare and distribute agendas and previous meeting minutes in advance of scheduled meetings of both the executive board and the authority;

(b) Provide minutes and other agenda items requiring official action to all members at least two (2) weeks prior to scheduled meetings;

(c) Prepare and distribute in advance of executive board and authority meetings a financial report on the status of the water resources fund; and

(d) Prepare and provide to the authority an annual report including, but not limited to, a status report reviewing water activities from the previous year that fall within the authority's responsibilities or powers, areas of possible authority action or involvement, recommendations on future year activities, and an annual financial report.

Section 5. KRS 151.360 is amended to read as follows:

(1) In order to provide for the development of Kentucky's water resources to meet future demands for usable water, and to provide for the construction of water resource projects including but not limited to the construction of dams with [~~surplus~~] water storage capacity, reservoirs for municipal and industrial water supply, and other projects *and water supply facilities* to assure the adequate supply of water which is essential to the continued municipal, industrial, recreational and agricultural growth of the Commonwealth, the authority is hereby authorized and empowered[~~,~~] to*:*

(a) Contract with the federal government for the inclusion of [~~additional~~] water supply storage space behind existing or proposed flood control or other projects;[~~: to~~]

(b) Construct, maintain, repair and operate water *supply* [~~resources~~] projects; [~~to~~]

(c) Participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction, maintenance, repair or operation of any water *supply* [~~resource~~] project; [~~to~~]

(d) Lease water *supply* [~~resource~~] projects to the *cabinet* [~~department~~] or other governmental agencies and political subdivisions of the Commonwealth; and [~~to~~]

(e) Provide financial assistance through loans or otherwise for the development of water *supply* [~~resource~~] projects.

(2) The authority is hereby authorized and empowered to*:*

(a) Contract with the federal government to conduct water resources project studies;

(b) Contract with the federal government for the construction, maintenance, repair and operation of flood control, navigation, and water-related recreation projects;

(c) Construct, maintain, repair and operate structural and nonstructural projects and facilities for flood damage abatement and non-point source pollution control or associated with publicly-owned water supply dams;

(d) Participate with any state government agency, political subdivision, or any other person in the construction, maintenance, repair and operation of any water resources project;

(e) Lease any water resources project to the cabinet or any other governmental agency and political subdivision of the Commonwealth;

(f) Provide financial assistance through loans or otherwise for the development of any water resources project;

(g) Coordinate the programs of all state agencies in the conservation, development and wise use of public water*; and* [~~.~~]

(h) [~~(3) The authority is authorized and empowered to~~] Promote the beneficial and proper distribution of water throughout the Commonwealth.

Section 6. KRS 151.370 is amended to read as follows:

The authority is further authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate and regulate water resource projects at such locations within the Commonwealth as may be determined by the authority;

(2) To acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise or otherwise,

the fee simple title to or any acceptable lesser interest in any lands, and by lease or other conveyance, contract for the right to use and occupy any lands selected in the discretion of the authority as constituting necessary, desirable or acceptable sites for water resources projects of the authority;

(3) To issue revenue bonds of the authority payable solely from the revenues, rentals, rates, charges and other funds, pledged for their payment, for the purpose of paying all or any part of the cost of any one (1) or more projects, and to refund any of its bonds;

(4) To fix by contract, or to establish and revise from time to time and charge and collect revenues, rentals, rates and charges for the use of the services and facilities of projects;

(5) To combine for financing purposes any two (2) or more projects;

(6) To establish and enforce rules and regulations for the use of any project;

(7) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same;

(8) To make and enter into such agreements with the federal government, the Commonwealth or any of its agencies or political subdivisions and any other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(9) To employ such employes and agents as may be necessary in the judgment of the authority and to fix their compensation subject to KRS Chapter *18A* [~~18~~];

(10) To receive and accept from the Commonwealth and any federal *or other government* agency *or private concern,* grants for or in the aid of *planning for water resources management, water resources program establishment, or* construction or development of any water resources project, and to receive and accept aid or contributions from any source of either money, property, labor or any other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(11) To expend reasonable funds of the authority in the form of grants for research, scientific study or planning of the development of water resources throughout the Commonwealth;

(12) To adopt any rules or regulations necessary to accomplish the purposes of the authority;

(13) To do all acts and things necessary or convenient to carry out the powers expressly granted to the authority.

Section 7. KRS 151.390 is amended to read as follows:

When it has been determined by the authority that the *planning,* development and construction of a water resources project will accomplish the public purposes of this chapter, the authority may contract to loan any county, city, water district *or association, flood control district,* watershed conservancy district or other governmental subdivision *or agency* of the Commonwealth, such amount of money as in the discretion of the authority is needed in the development and completion of the water resources project.

Section 8. KRS 151.410 is amended to read as follows:

(1) Any governmental subdivision *or agency* of the Commonwealth may apply to the authority for assistance in the *planning,* development, construction and operation of a water resources project. Applications shall be made in a manner prescribed by regulations of the authority.

(2) The authority shall hold such hearings and examinations as to each application as shall be necessary to determine whether the public purposes of this chapter will be accomplished by granting financial assistance to such applicants.

Section 9. KRS 151.460 is amended to read as follows:

(1) It shall be the duty of the *cabinet's* [~~department's~~] office of general counsel, or upon the secretary's request, of the attorney general to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, for the prevention or correction of a condition constituting or threatening to constitute a violation of this chapter, except as provided for in KRS 151.299.

(2) All actions for penalties and injunctive relief for violations of this chapter shall be brought in the name of the Commonwealth of Kentucky by the *cabinet's* [~~department's~~] office of general counsel, or upon the secretary's request, by the attorney general in the circuit court of the county in which the applicant resides, or in the circuit court having jurisdiction of the defendant.

The Committee Substitute to **HB 264** is as follows:

HB 264, AN ACT relating to water resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.100 is amended to read as follows:

As used in KRS 151.100 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

(1) The word "authority" shall mean the water resources authority of Kentucky;

(2) The word *"cabinet"* [~~"department"~~] shall mean the [~~department for~~] natural resources and environmental protection *cabinet*;

(3) The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;

(4) The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;

(5) The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;

(6) The word "floodway" shall mean that area of a stream or watercourse necessary to carry off flood water as determined by the commissioner;

(7) The word "floodplain" shall mean the area in a watershed that is subject to inundation;

(8) The word "watershed" shall mean all of the area from which all drainage passes a given point downstream;

(9) The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;

(10) The word "water *resources* [~~resource~~] project" or "project" shall mean any *structural or nonstructural study, plan, design,* construction, development, improvement or any other activity *including programs for management,* intended to conserve and develop the water resources of the Commonwealth *and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures*;

(11) The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water;

(12) The word "dam" shall mean any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either (1) is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or (2) has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;

(13) The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(14) "Secretary" shall mean the secretary of the [~~department for~~] natural resources and environmental protection *cabinet*;

(15) "Authorized representative" shall mean an individual specifically authorized by the commissioner to act in his behalf;

(16) The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;

(17) "Owner" shall mean any person who owns an interest in, controls, or operates a dam.

Section 2. KRS 151.330 is amended to read as follows:

(1) The governor, the secretary for natural resources and environmental protection, the secretary of the finance and administration cabinet, the secretary for human resources or his designee, the commissioner of economic development, the commissioner of agriculture, the secretary of the commerce cabinet, the attorney general, the secretary of the transportation cabinet, the commissioner of fish and wildlife resources, the commissioner of parks, and their respective successors in office, and two (2) members of the flood control advisory commission shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth by the name of "the water resources authority of Kentucky" with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their service in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as such members.

(3) Seven (7) members of the authority shall constitute a quorum for the transaction of business. The governor shall, by virtue of his office, be the chairman of the authority. The secretary for natural resources and environmental protection shall, by virtue of his office, be the vice-chairman of the authority. The secretary of the finance and administration cabinet shall, by virtue of his office, be the treasurer of the

authority.

(4) The authority shall meet *semi-annually* [~~quarterly~~] or more often if necessary.

(5) An executive board consisting of five (5) members of the authority or their designees, selected by the governor with the consent of the authority, shall meet as needed but not less than quarterly and at least one (1) month in advance of authority meetings. The board shall consider and discuss matters to be placed before the authority and shall set an agenda for authority meetings.

Section 3. KRS 151.340 is amended to read as follows:

(1) Administrative details and other activities of the authority shall be administered by the executive director of the authority and he shall maintain correct, complete records of all the authority's transactions and proceedings which shall constitute public records open to inspection at reasonable times. The executive director of the authority shall be *appointed by the authority for a term established at the authority's discretion* [~~the director of the division in the department responsible for administering the provisions of this chapter~~].

(2) The executive director shall:

(a) Prepare and distribute agendas and previous meeting minutes in advance of scheduled meetings of both the executive board and the authority;

(b) Provide minutes and other agenda items requiring official action to all members at least two (2) weeks prior to scheduled meetings;

(c) Prepare and distribute in advance of executive board and authority meetings a financial report on the status of the water resources fund; and

(d) Prepare and provide to the authority an annual report including, but not limited to, a status report reviewing water activities from the previous year that fall within the authority's responsibilities or powers, areas of possible authority action or involvement, recommendations on future year activities, and an annual financial report.

Section 4. KRS 151.360 is amended to read as follows:

(1) In order to provide for the development of Kentucky's water resources to meet future demands for usable water, and to provide for the construction of water resource projects including but not limited to the construction of dams with [~~surplus~~] water storage capacity, reservoirs for municipal and industrial water supply, and other projects *and water supply facilities* to assure the adequate supply of water which is essential to the continued municipal, industrial, recreational and agricultural growth of the Commonwealth, the authority is hereby authorized and empowered[~~,~~] to*:*

(a) Contract with the federal government for the inclusion of [~~additional~~] water supply storage space behind existing or proposed flood control or other projects*;*[~~; to~~]

(b) Construct, maintain, repair and operate water *supply* [~~resources~~] projects; [~~to~~]

(c) Participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction, maintenance, repair or operation of any water *supply* [~~resource~~] project; [~~to~~]

(d) Lease water *supply* [~~resource~~] projects to the *cabinet* [~~department~~] or other governmental agencies and political subdivisions of the Commonwealth; and [~~to~~]

(e) Provide financial assistance through loans or otherwise for the development of water *supply* [~~resource~~] projects.

(2) The authority is hereby authorized and empowered to*:*

(a) Contract with the federal government to conduct water resources project studies;

(b) Contract with the federal government for the construction, maintenance, repair and operation of flood control, navigation, and water-related recreation projects;

(c) Construct, maintain, repair and operate structural and nonstructural projects and facilities for flood damage abatement and non-point source pollution control or associated with publicly-owned water supply dams;

(d) Participate with any state government agency, political subdivision, or any other person in the construction, maintenance, repair and operation of any water resources project;

(e) Lease any water resources project to the cabinet or any other governmental agency and political subdivision of the Commonwealth;

(f) Provide financial assistance through loans or otherwise for the development of any water resources project;

(g) Coordinate the programs of all state agencies in the conservation, development and wise use of public water*; and* [~~.~~]

(h) [~~(3) The authority is authorized and empowered to~~] Promote the beneficial and proper distribution of water throughout the Commonwealth.

Section 5. KRS 151.370 is amended to read as follows:

The authority is further authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate and regulate water resource projects at such locations within the Commonwealth as may be determined by the authority;

(2) To acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise or otherwise,

the fee simple title to or any acceptable lesser interest in any lands, and by lease or other conveyance, contract for the right to use and occupy any lands selected in the discretion of the authority as constituting necessary, desirable or acceptable sites for water resources projects of the authority;

(3) To issue revenue bonds of the authority payable solely from the revenues, rentals, rates, charges and other funds, pledged for their payment, for the purpose of paying all or any part of the cost of any one (1) or more projects, and to refund any of its bonds;

(4) To fix by contract, or to establish and revise from time to time and charge and collect revenues, rentals, rates and charges for the use of the services and facilities of projects;

(5) To combine for financing purposes any two (2) or more projects;

(6) To establish and enforce rules and regulations for the use of any project;

(7) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same;

(8) To make and enter into such agreements with the federal government, the Commonwealth or any of its agencies or political subdivisions and any other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(9) To employ such employes and agents as may be necessary in the judgment of the authority and to fix their compensation subject to KRS Chapter *18A* [~~18~~];

(10) To receive and accept from the Commonwealth and any federal *or other government* agency *or private concern,* grants for or in the aid of *planning for water resources management, water resources program establishment, or* construction or development of any water resources project, and to receive and accept aid or contributions from any source of either money, property, labor or any other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(11) To expend reasonable funds of the authority in the form of grants for research, scientific study or planning of the development of water resources throughout the Commonwealth;

(12) To adopt any rules or regulations necessary to accomplish the purposes of the authority;

(13) To do all acts and things necessary or convenient to carry out the powers expressly granted to the authority.

Section 6. KRS 151.390 is amended to read as follows:

When it has been determined by the authority that the *planning,* development and construction of a water resources project will accomplish the public purposes of this chapter, the authority may contract to loan any county, city, water district *or association, flood control district,* watershed conservancy district or other governmental subdivision *or agency* of the Commonwealth, such amount of money as in the discretion of the authority is needed in the development and completion of the water resources project.

Section 7. KRS 151.410 is amended to read as follows:

(1) Any governmental subdivision *or agency* of the Commonwealth may apply to the authority for assistance in the *planning,* development, construction and operation of a water resources project. Applications shall be made in a manner prescribed by regulations of the authority.

(2) The authority shall hold such hearings and examinations as to each application as shall be necessary to determine whether the public purposes of this chapter will be accomplished by granting financial assistance to such applicants.

Section 8. KRS 151.460 is amended to read as follows:

(1) It shall be the duty of the *cabinet's* [~~department's~~] office of general counsel, or upon the secretary's request, of the attorney general to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, for the prevention or correction of a condition constituting or threatening to constitute a violation of this chapter, except as provided for in KRS 151.299.

(2) All actions for penalties and injunctive relief for violations of this chapter shall be brought in the name of the Commonwealth of Kentucky by the *cabinet's* [~~department's~~] office of general counsel, or upon the secretary's request, by the attorney general in the circuit court of the county in which the applicant resides, or in the circuit court having jurisdiction of the defendant.

Section 9. KRS 224A.010 is amended to read as follows:

As used in this chapter, the following words or terms shall have the respective meanings indicated whenever used in this chapter, unless a different meaning is clearly indicated by the context:

(1) "Assistance agreement" shall mean the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a state grant or grants to the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(2) "Authority" shall mean the Kentucky pollution abatement *and water resources finance* authority, which is created by this chapter.

(3) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, and operate waste water treatment facilities, as

hereinafter defined, *and water distribution facilities, as hereinafter defined* and such definition shall specifically apply, but not by way of limitation, to incorporated cities, counties, including any counties containing a metropolitan sewer district, sanitation districts, water districts, sewer construction districts, metropolitan sewer districts, sanitation taxing districts, and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multi-municipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing such described powers.

(4) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(5) "State" means the Commonwealth of Kentucky.

(6) "State water pollution agency" means the Kentucky natural resources and environmental protection cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the Federal Water Pollution Control Act, Public Law 845, 80th Congress (62 Stat. 1155) (1948), as said federal act has been amended by subsequent acts of congress, including the Federal Water Pollution Control Act Amendments of 1972, 92nd Congress, Public Law 92-498 (86 Stat. 814) (1972), and as said federal act may be amended from time to time in the future.

(7) "Federal act" means the Federal Water Pollution Control Act, Public Law 845, 80th Congress (62 Stat. 1155) (1948) as said federal act has been amended by subsequent acts of congress, including the Federal Water Pollution Control Act Amendments of 1972, 92nd Congress, Public Law 92-498 (86 Stat. 814) (1972), and as said federal act may be amended from time to time in the future.

(8) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground, waters.

(9) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(10) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders such waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of such waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(11) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(12) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing or recovery of any natural resources, including heat and radioactivity, together with such sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating or manufacturing processes.

(13) "Waste water" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of such waters.

(14) "Treatment works" or "waste water treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of waste water, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of waste water, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any waste water treatment works, including site acquisition of the land that will be an integral part of the waste water treatment process, or is used for ultimate disposal of residues resulting from such treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act.

(15) "Construction" means and includes, inter alia*:*[~~,~~]

(a) Preliminary planning to determine the economic and engineering feasibility of treatment works *and distribution facilities*, the engineering, architectural, legal, fiscal, and economic investigations and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary to the construction of treatment works *and distribution facilities*;

(b) The erection, building, acquisition, alteration, remodeling, improvement or extension of treatment works *and distribution facilities*; and

(c) The inspection and supervision of the construction of treatment works *and distribution facilities*, and all costs incidental to the acquisition and financing of same; and such term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, treatment works *and distribution facilities* which shall in futuro become eligible for federal grant *or loan* participation.

(16) "Eligible project" means any construction of treatment works *or distribution facilities* instituted by a governmental agency which is approved by the authority, and the state water pollution agency, *public service commission or other agency if required.*

(17) "Federal grant" means money which is made available to any governmental agency or to the authority or the state water pollution agency pursuant to the provisions of any federal law, which money is made available for the purpose of assisting such governmental agency, either directly or through allocation by the state, in the acquisition or construction of treatment works.

(18) "Service charge" means any monthly, quarterly, semiannual, or annual charges to be imposed by a governmental agency, or by the authority, for the collection, treatment, and disposal of pollutants, which service charge arises by reason of the existence of, and requirements of, any assistance agreement. Said term shall also mean any moneys and funds agreed to be paid on an annual automatically renewable basis by any county, including any county containing a metropolitan sewer district, to the authority pursuant to an assistance agreement.

(19) "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

(20) "State grant" or "state grants" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction of treatment works which constitute the subject matter of any eligible project.

(21) "Authority revenues" means the totality of all:

(a) Service charges,

(b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority,

(c) Any gifts, [~~or~~] grants *or loans* received from any agency of government, both federal and state, to the extent not otherwise required to be applied,

(d) Any and all appropriations made to the authority by the general assembly of the Commonwealth of Kentucky, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority, [~~and~~]

(e) All moneys received in repayment of and for interest on, any state grant made by the authority to a governmental agency, *and*

(f) The proceeds of bonds or long term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(22) "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues, *and shall include revenue bond anticipation notes.*

(23) "General obligation bonds" means bonds issued by the state for the use and benefit of the authority, and to provide funds for authority purposes, secured by the full faith, credit, and unlimited taxing power of the state, which bonds have been properly voted at one or more elections, held in accordance with the requirements of sections 49 and 50 of the constitution of the Commonwealth of Kentucky.

(24) "Applicable interest rate" means the net average rate of interest which is established as a result of the sale of authority revenue bonds upon the occasion of the sale of authority revenue bonds last occurring before the execution of any particular assistance agreement, or occurring after the execution of any assistance agreement and contemplated thereby, which shall be used as a part of the repayment criteria of the governmental agency which is a party of such assistance agreement.

(25) "Federal loan" means money loaned to any governmental agency or to the authority pursuant to the provisions of any federal law, which money is made available for the purpose of assisting such governmental agency, either directly or through allocation by the state, in the acquisition and construction of treatment works or distribution facilities.

(26) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, treating and distributing water for agricultural, industrial, commercial, recreational, public and domestic use.

(27) "Interim financing agreement" shall mean the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance and delivery of long term debt obligations to effect federal loans to said governmental agency.

Section 10. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky pollution abatement *and water resources finance* authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental

agency and instrumentality of the Commonwealth of Kentucky. The affairs of the authority shall be managed and carried out by a board consisting of seven (7) members who shall be appointed by the governor of the state. The membership of the authority shall include the secretary of the commerce cabinet who shall serve in an ex officio capacity, and as chairman of the authority. The secretaries of finance and administration and natural resources and environmental protection, and the commissioners of economic development and local government shall also serve as ex officio members of the authority. The governor shall additionally appoint two (2) at large members who shall serve for terms of four (4) years. Said members shall constitute said Kentucky pollution abatement *and water resources finance* authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the Commonwealth of Kentucky.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Four (4) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one or more members may adjourn from time to time until a quorum is convened. Within 90 days from March 27, 1972, the authority shall convene and organize. The members of the authority shall choose from their ranks a chairman and a vice-chairman of the authority. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority with approval of the commissioner of personnel, to be paid from funds appropriated for that purpose. The treasurer shall give bonds to the authority and the state conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority shall prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth of Kentucky, premium therefor to be paid by the authority. The authority may engage an executive director, who shall be bonded as in the case of said treasurer, and such other technical personnel as may in the premises be deemed proper and prudent.

(4) The authority shall, for administrative purposes, be attached to *the finance and administration cabinet* [~~that cabinet of state government under which the state water pollution agency is administered~~], and shall establish and maintain offices in premises which shall be provided for that purpose by the *finance and administration cabinet* [~~appropriate and responsible state department~~]; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 11. KRS Chapter 224A.035 is amended to read as follows:

The Kentucky pollution abatement *and water resources finance* authority is created solely to perform essential governmental functions and to serve the public purpose of engaging in a program of assistance to governmental agencies in Kentucky with respect to the construction and acquisition of waste water treatment works *and distribution facilities.* In accomplishing such purposes, the Kentucky pollution abatement *and water resources finance* authority shall be and constitute a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky.

Section 12. KRS 224A.070 is amended to read as follows:

The authority is expressly empowered to carry out and perform the following essential governmental functions of statewide import and concern:

(1) To adopt comprehensive rules, regulations and bylaws for the regulation of its affairs and the conduct of its business, which may define with specificity conditions precedent under which applications for state grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which said authority is empowered to act, together with such other employes as shall be necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service in the Commonwealth of Kentucky, such tax to be equal to not more than two per cent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for state grants;

(7) To make state grants to any governmental agency for the purpose of assisting such governmental agency in the construction of eligible projects. All such state grants shall be payable to the governmental agency in accordance with the terms and conditions of an assistance agreement by and between the authority and such governmental agency, which shall include the provisions and conditions specified in KRS 224A.100,

and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, such real property or rights therein, including rights-of-way, easements and licenses, and such personal property as may be reasonably deemed necessary in order to effectuate the development, implementation, financing, and construction of any eligible project, and to make such properties available to governmental agencies in connection with eligible projects;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of such assistance agreements, and to use and employ such service charges in accordance with the provisions of this chapter, such service charges to constitute authority revenues;

(10) To enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer eligible projects partially financed by state grants which have been undertaken by governmental agencies;

(11) *To enter interim financing agreements with governmental agencies qualified for federal loans in order to provide to said governmental agencies interim construction monies pending the sale, issuance and delivery of long term debt obligations by said governmental agency to the federal government through the issuance of one (1) or more series of the authority's bond anticipation notes.*

(12) To enforce interim financing agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings in order to provide for the payment of the authority's bond anticipation notes issued on behalf of said governmental agencies.

(13) To have, possess and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 13. KRS 224A.080 is amended to read as follows:

All governmental agencies shall have and possess, in addition to all other powers now or hereafter vested in them, the following powers:

(1) To undertake eligible projects;

(2) To make application for, and to receive, federal grants in aid of *or loans for* eligible projects in accordance with the provisions of any federal laws now in effect, or in effect in the future;

(3) To make application for, and to receive, state grants in accordance with the terms and provisions of this chapter;

(4) To comply with rules, regulations, and bylaws promulgated by the authority with respect to state grants;

(5) To enter into assistance agreements *or interim financing agreements* with the authority;

(6) To comply with all terms, conditions and requirements of any assistance agreement *or interim financing agreement* pursuant to which a state grant is to be received from the authority *or the authority is to provide interim financing to the governmental agency*;

(7) To covenant with the authority to, and to impose, service charges upon all persons to whom sewer services are provided by the construction of eligible projects. Such service charges shall, as appropriate in the individual cases and circumstances, be in addition to all other rates, rentals, and charges of a similar nature now or hereafter authorized by law and now or hereafter being levied and collected by such governmental agencies. Counties and urban county governments, including counties containing metropolitan sewer districts, shall have the right to covenant with the authority to pay to the authority on an annual, automatically renewable basis, such moneys and funds pursuant to an assistance agreement as shall enable the authority to amortize revenue bonds issued to provide eligible projects to such counties and urban county governments, subject to constitutional provisions;

(8) To covenant with the authority to mandatorily require the use of sanitary sewers by all persons owning, renting, or occupying premises generating pollution, where sewer service is reasonably available to such premises, and to exhaust all remedies for the collection of service charges, including termination of water service to delinquent sewer customers; and to promptly remit all service charges collected to the authority in accordance with the terms, conditions, and requirements of assistance agreements.

(9) To covenant with the authority to pledge and apply the proceeds of long term debt obligations issued by said governmental agencies to the payment and retirement of revenue bond anticipation notes issued by the authority on behalf of said governmental agencies.

SECTION 15. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The authority may enter into interim financing agreements with governmental agencies, and governmental agencies may enter into interim financing agreements with the authority in connection with eligible projects. Each such interim financing agreement may be subject to the approval by the state water pollution agency, or the state public service commission, if applicable, may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following *provisions:*

(1) An estimate of the reasonable cost of the eligible project, as determined by the authority;

(2) The amount of state or federal grants or loans to be made to the governmental agency;

(3) The time or times at which such state or federal grants or loans shall become payable to the governmental agency;

(4) The specific purpose or purposes for which the proceeds of state or federal grants or loans made to the governmental agency shall be expended;

(5) The conditions under which state or federal grants or loans may be expended on account of the eligible project by the governmental agency;

(6) An agreement by the governmental agency:

(a) To proceed expeditiously with and promptly complete the eligible project or cause same to be completed in accordance with the plans and specifications approved by federal and state agencies;

(b) To commence or cause to be commenced operation of the eligible project on completion of construction and not to discontinue operations or dispose of such eligible project without the approval of the authority, and the state water pollution agency or state public service commission, if applicable;

(c) To operate and maintain or cause to be operated and maintained the eligible project in accordance with applicable provisions of federal and state law and the terms and conditions of the loan documents implementing federal or state grants or loans to the governmental agency;

(d) To provide for the payment of the governmental agency's share of the cost of the eligible project through the issuance of the governmental agency long term debt obligations in the appropriate manner and at the appropriate time in order that sufficient funds will be available to repay and retire bond anticipation notes issued by the authority on behalf of said governmental agency.

Section 16. KRS 224A.120 is amended to read as follows:

(1) The authority is hereby authorized and empowered to provide, at one time or from time to time, for the issuance of its Kentucky pollution abatement *and water resources finance* authority revenue bonds, for the purpose of providing funds and moneys to the authority to enable it to enter into assistance agreements with governmental agencies and thereby make state grants for eligible projects, and to enable the authority generally to carry out and effectuate its proper corporate purposes. In anticipation of the issuance of such revenue bonds, the authority is specifically authorized and empowered to provide for the issuance at one time, or from time to time, of revenue bond anticipation notes pursuant to the general laws of Kentucky. The principal of and the interest on such revenue bonds or notes shall be payable solely from authority revenues, as defined in this chapter. Any such notes issued may be made payable from the proceeds of bonds or renewal notes, or in the event bond or renewal note proceeds are not available, or should the authority deem it financially practicable to pay such notes directly from authority revenues, such notes may be paid from any available authority revenues.

(2) The revenue bonds or notes of the authority shall be dated and may be redeemable prior to maturity at the option of the authority at such prices and under such terms and conditions as may be determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding five (5) years from their date or dates, and revenue bonds shall mature at such time or times not exceeding forty (40) years from their date or dates as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, [~~including any interest coupons to be attached thereto,~~] and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer of the authority whose signature or facsimile of whose signature shall appear on any revenue bonds or notes, [~~or coupons attached thereto,~~] shall cease to be such officer before the delivery thereof, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery. *The authority may provide that said bonds or notes may be executed only with the facsimile signatures of its officers, but said bonds or notes shall be executed with the manual signature of a bank or trust company designated by the authority as registrar and paying agent.*

(3) All revenue bonds *or notes* issued under the provisions of this chapter shall have and are hereby declared to possess all of the qualities and incidents of negotiable instruments under the laws of Kentucky. [~~The revenue bonds may be issued in coupon or in registered form, or in both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.~~] The authority may sell such revenue bonds or notes in such manner, either at public or private sale, and for such price, as it may determine will best effect the purpose of this chapter.

(4) In its proceedings authorizing the issuance of revenue bonds or notes, the authority shall fix and determine contractual provisions with the bondholders relating to the receipt, allocation, pledging, and disbursement of authority revenues, and may enact and determine terms, conditions, and restrictions pursuant to which additional revenue bonds of the authority may be authorized and issued from time to time; Provided, however, that such proceedings, determinations and enactments of the authority shall specify that

the payment of principal of and interest on all authority revenue bonds and notes shall constitute a first charge and lien against all authority revenues before any such authority revenues are used, applied, and disbursed for any other valid purposes of the authority, including the payment of operation and maintenance costs incident to the operation of the authority.

(5) The proceeds of all revenue bonds or notes shall be used solely for the purpose of enabling the authority to enter into assistance agreements *or interim financing agreements* with governmental agencies and make state grants to such governmental agencies for eligible projects; Provided, however, that interest coming due on said revenue bonds or notes, for not to exceed three (3) years, together with a debt service reserve equal to two (2) times the maximum principal and interest requirements to come due during any fiscal year ending June 30, in connection with said revenue bonds or notes, may be capitalized from bond proceeds, it being determined and recognized that eligible projects for which state grants are made, may in some cases not become fully revenue-producing for a period of time coincident with the construction period of such eligible projects. Revenue bond or note proceeds may also be utilized, used and applied for the payment of ordinary and necessary expenses in connection with issuance of such revenue bonds or notes, including, but not by way of limitation, a sum equal to any discount in the sale of revenue bonds or notes (if discount bids are authorized and permitted by the authority), administrative expenses, including the preparation of revenue bonds or notes, publication of notices, printing and other costs, attorneys' fees, and other ordinary and necessary costs of financing, including the payment of fees to fiscal agents for advice and assistance in the preparation and marketing of revenue bonds or notes.

(6) Prior to the preparation of definitive revenue bonds or notes, the authority may, under like restrictions, issue interim receipts or temporary bonds [~~with or without coupons~~], exchangeable for definitive revenue bonds or notes when such revenue bonds or notes shall have been executed, and are available for delivery. The authority may also provide for the replacement of any revenue bonds or notes which shall have become mutilated or shall have been destroyed or lost. Revenue bonds or notes may be issued under the provisions of this chapter directly by the authority without obtaining the consent or acquiescence of any cabinet, division, commission, board, department or agency of the Commonwealth of Kentucky, and without any other proceedings or the happening of any other conditions or things except as specifically required by this chapter, and the provisions of the resolution or resolutions of the authority authorizing the issuance of such revenue bonds or notes*; provided, however, nothing in this chapter shall be construed as removing any governmental agency from the jurisdiction of any such cabinet, division, commission, board, department or agency of the Commonwealth of Kentucky otherwise established by law as a prerequisite for financing commitments.*

Section 17. KRS 224A.260 is amended to read as follows:

(1) The Kentucky pollution abatement *and water resources finance* authority may finance pollution control facilities in the manner provided by KRS 103.246. For such purposes, the terms "city" and "county" as used in KRS 103.246 shall also mean and refer to the Kentucky pollution abatement *and water resources finance* authority.

(2) The authority may enter into such agreements with the United States small business administration as shall be necessary in connection with the financing of pollution control facilities in order to provide for the guarantee of bonds or notes of the Kentucky pollution abatement *and water resources finance* authority by the United States small business administration.

(3) The authority granted to the Kentucky pollution abatement *and water resources finance* authority by this section shall not include the power to acquire property, rights of way or easements by condemnation.

(4) Neither the Kentucky pollution abatement *and water resources finance* authority nor the Commonwealth or any political subdivision of the Commonwealth shall be pecuniarily responsible or liable in any manner for the payment of principal of and interest on bonds or notes issued by the authority under this section. Such bonds or notes shall be payable solely from revenues, receipts and payments derived from the lease, sale or vesting of such pollution control facilities in and to industrial concerns and utility companies with whom the authority contracts.

HB 269, AN ACT relating to water resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.110 is amended to read as follows:

The conservation, development and proper use of the water resources of the Commonwealth of Kentucky have become of vital importance as a result of population expansion and concentration, industrial growth, technological advances and an ever increasing demand for water for varied industrial, municipal and recreational uses. It is recognized by the general assembly that excessive rainfall during certain seasons of the year causes damage from overflowing streams. However, prolonged droughts at other seasons curtail industrial, municipal, agricultural and recreational uses of water and seriously threaten the continued growth and economic well-being of the Commonwealth. The advancement of the safety, happiness and welfare of the people and the protection of property require that the power inherent in the people be utilized to promote and to regulate the conservation, development and most beneficial use of the water resources. *Ground and surface waters are interrelated and part of a single hydrologic resource. Uncoordinated development and use of the resource, fosters conflicts between competing users, discourages investment and economic development and prevents the optimal utilization of valuable water resources. Multiple uses of the resource, for municipal, industrial, commercial, and rural water supply; navigation; agriculture; hydroelectric power and energy production; recreation; water quality maintenance; and conservation of fish and wildlife, are interdependent.* It is hereby declared that the general welfare requires that the water resources of the Commonwealth be put to the beneficial use to the fullest extent of which they are capable, that the waste or nonbeneficial use of water be prevented, and that the conservation and beneficial use of water be exercised in the interest of the people. Therefore, it is declared the policy of the Commonwealth to actively encourage and to provide financial, technical or other support for projects that will control and store our water resources in order that the continued growth and development of the Commonwealth might be assured. To that end, it is declared to be the purpose of KRS chapters 146, 149, 151, *224,* 262 and 350.029 and 433.750 to 433.757 for the Commonwealth to permit, regulate, and participate in the construction or financing of facilities to store surplus surface water for future use; to conserve and develop the ground water resources of the Commonwealth; to protect the rights of all persons equitably and reasonably interested in the use and availability of water; to prohibit the pollution of water resources and to maintain the normal flow of all streams so that the proper quantity and quality of water will be available at all times to the people of the Commonwealth; to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe droughts or times of emergency; to prevent harmful overflows and flooding; to regulate the construction, maintenance and operation of all dams and other barriers of streams; to prevent the obstruction of streams and floodways by the dumping of substances therein; to keep accurate records on the amount of water withdrawal from streams and watercourses, *its distribution by end use, and different levels of withdrawal and delivery* and reasonably regulate the amount of withdrawal of public water; *to develop a comprehensive, systematic plan for the management of the Commonwealth's water resources and to establish and operate a continuous planning process;* and to engage in other activities as may be necessary to conserve and develop the water resources of the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS 151.110 - 151.330 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall develop a comprehensive, systematic plan for the management of the Commonwealth's surface and ground water resource and shall establish and operate a continuous planning process to assure that future public needs can be met and a balance achieved among different water uses and functions. The plan shall:

(a) Provide for the conjunctive management of ground and surface waters since they comprise an interrelated hydrologic system;

(b) Establish a management system to recognize and protect existing water rights;

(c) Protect, conserve, develop and utilize the water resource in a manner consistent with the Commonwealth's duties for management of natural resources and the public's right to unpolluted water and the preservation of the natural, scenic, cultural, historic and aesthetic values of the environment;

(d) Provide a coordinated framework for cooperation between federal, interstate, state and local government agencies in the planning and management of water resources; and

(e) Be designed so as to be both anticipatory of future needs and reactive to problems.

(2) The cabinet shall provide for public involvement in the establishment of state priorities, in plan development and implementation, and in the continuous planning process.

(3) The state water plan shall include all elements of ground and surface water quantity and quality management in order to assess and formulate that combination of policies, programs and projects which can address the total water quantity and quality needs and objectives of the Commonwealth in the most effective manner with due consideration of significant economic, social and environmental impacts. The state water plan shall include:

(a) A complete inventory of the water resources of the Commonwealth including an assessment of surface water availability and ground water yields for instream and withdrawal uses, especially during periods of drought;

(b) The identification of instream use needs and the establishment of instream flow levels, including flows required to support and sustain water supply, navigation, fisheries, wildlife, a balanced aquatic environment, recreational uses, hydroelectric generation, waste assimilative capacity and the values of streams included within the state or federal wild and scenic rivers systems;

(c) An assessment of existing and projections of future withdrawal use demands for domestic public water supply, agricultural, electrical generation and energy production, commercial, industrial and other uses;

(d) An analysis of the water quality of the water resources of the Commonwealth, including point and nonpoint sources of pollution, waste treatment needs and the impact of water quality conditions on drinking water supply and other uses of such waters;

(e) An assessment of flood damage and storm water management problems;

(f) An assessment of water resources needed to serve environmental, recreational, and ecological purposes, including the protection of wetlands;

(g) An evaluation of both structural and nonstructural alternatives to address identified problems and needs in all functional water resources areas covered by the plan, including economic and environmental evaluations and the screening of existing and potential federal, state, regional and other projects to determine their effect on water resource problems and needs in the Commonwealth;

(h) A review and evaluation of laws, regulations, policies and institutional arrangements for the development, use, conservation, distribution, marketing and management of water resources;

(i) A data collection and research program necessary to support plan development and updating; and

(j) Recommendations in each functional area covered by the plan for policies, programs, projects and other mechanisms to be implemented in order to fully address the water resource needs, problems, and opportunities identified through the plan.

(4) The cabinet shall complete initial components of the comprehensive statewide plan within two (2) years from the effective date of this Act. Initial plan components shall include the municipal, industrial, and rural water supply, including water conservation; water quality maintenance; ground water quality and quantity; legal, institutional, and financial aspects; and data collection and research elements set forth in subsection (3) of this section. The continuous planning process, which will address all remaining elements set forth in subsection (3) of this section and provide for updating of all plan components, shall be in operation within two (2) years from the effective date of this Act.

The Committee Amendment No. 1 to **HB 269** is as follows:

Amend printed copy of **HB 269,** page 4, lines 9 and 10 by deleting the following: "*Establish a management system to recognize and protect existing water rights;*"

And on page 4, on lines 14 through 16 by deleting the following: "*and the public's right to unpolluted water and the preservation of the natural, scenic, cultural, historic and aesthetic values of the environment*";

And on page 4, lines 23 through 26 by deleting the following: "*The cabinet shall provide for public involvement in the establishment of state priorities, in plan development and implementation, and in the continuous planning process.*"

And on page 4, line 11, by substituting "*(b)*" for "*(c)*"

And on page 4, line 17, by substituting "*(c)*" for "*(d)*"

And on page 4, line 21, by substituting "*(d)*" for "*(e)*";

And on page 5, line 1, by substituting "*(2)*" for "*(3)*";

And on page 7, line 2, by substituting "*(3)*" for "*(4)*".

HB 679, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.420 is amended to read as follows:

The operator shall minimize disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by:

(1) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(a) Preventing or removing water from contact with toxic producing deposits;

(b) Treating drainage to reduce toxic content which adversely affects downstream water upon being released to watercourses; and

(c) Casing, sealing, or otherwise managing boreholes, shafts, and wells and keeping acid or other toxic drainage from entering ground and surface waters;

(2) Conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law;

(3) Constructing any siltation structures pursuant to subsection (2) of this section prior to commencement of surface coal mining operations, such structures to be certified by a qualified registered engineer *based on best professional judgment, related experience, accepted engineering practices, and recognized professional standards and* to be constructed as designed and as approved in the reclamation plan. *Such certification shall be deemed an affirmative demonstration that such structures will comply with subsection (2) of this section*;

(4) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the department, however, settling ponds and siltation structures may be left and not removed if determined to be safe and written approval is granted by the department pursuant to its regulations;

(5) Restoring recharge capacity of the mined area to approximate premining conditions;

(6) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines; and

(7) Such other actions as the department may prescribe.

HB 790, AN ACT relating to underground mines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.470 is amended to read as follows:

(1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional civil or mining engineer registered in Kentucky, *except such maps may be prepared and signed by a licensed land surveyor for operations that involve only one (1) person.* KRS 322.340 requires that plats, etc. be stamped with their seal. The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by the mining laws of this state, and covers the period ending ...., ...
Certifying Agent

"Acknowledged before me, a ...., this .... day of ....."

....
....SEAL

(2) *Maps prepared by a licensed land surveyor shall be attested according to the provisions of KRS 322.400.*

(3) The commissioner may reject any map as incomplete if its accuracy is not [~~so~~] attested.

The Committee on State Government reported **HB 21, HB 702** with Committee Substitute attached thereto, **HB 749, HB 817, HB 847, HR 50, HJR 63, HR 66,** and **SB 135** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 21, AN ACT relating to special elections for members of the general assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.730 is amended to read as follows:

When a vacancy *exists* [~~occurs~~] in either house of the general assembly during its session, the presiding officer of the house in which the vacancy *exists* [~~occurs~~] shall issue a writ of election; *when* [~~if~~] the general assembly is not in session, the writ shall be issued by the governor. The writ shall be signed by the officer issuing it, shall designate the day for holding the election, and shall be directed to the proper sheriff or sheriffs.

HB 702, AN ACT relating to exports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a council which shall be known as the “Kentucky export council.” The council shall be composed of nineteen (19) members appointed by the governor. The council shall be attached to the commerce cabinet for administrative purposes.

(2) The members of the council shall be residents of the Commonwealth and shall be appointed with a view to promoting and facilitating international exports from the Commonwealth. The council as a whole shall possess the broadest background and understanding of international export trade.

(3) The council shall consist of at least three (3) members representing businesses with not more than two hundred fifty (250) employes; at least three (3) members representing businesses with more than two hundred fifty (250) but less than five hundred (500) employes; at least three (3) members representing businesses with more than five hundred (500) employes but less than seven hundred fifty (750) employes; at least three (3) members representing businesses with more than seven hundred fifty (750) employes but less than one thousand (1,000) employes; at least three (3) members representing businesses with more than one thousand (1,000) employes but less than two thousand (2,000) employes; and at least one (1) member of the council shall represent labor. The lieutenant governor shall also serve as a member of the council.

(4) Initial appointments of the members of the council shall be made as follows: six (6) of the members shall be appointed for a term of two (2) years each; six (6) of the members shall be appointed for a term of three (3) years each; six (6) of the members shall be appointed for a term of four (4) years each. Upon expiration of the terms of the initial appointees their successors shall each be appointed for a term of four (4) years. If a vacancy occurs, the governor shall appoint a successor for the remainder of the unexpired term. The council shall be nonpartisan and shall be appointed without reference to party affiliation. The members of the council shall serve without compensation. The lieutenant governor shall serve as chairman of the council. Prior to the first meeting of the council in each fiscal year, the governor shall appoint one (1) of the members of the council vice-chairman.

(5) The council shall meet quarterly and shall hold special meetings on the call of the chairman. Ten (10) members shall constitute a quorum. The council may adopt such administrative regulations as it may deem necessary to govern its procedures.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The council shall serve as the coordinating body for international exports of businesses of the Commonwealth. It shall use all resources available to it to enhance the international export capabilities of business in the Commonwealth. Immediately on being organized, the council shall review existing programs for the enhancement of international exports being carried on by the Commonwealth and make recommendations thereon. The council shall be assisted in carrying out its functions by the personnel of the commerce cabinet.

(2) At least thirty (30) days prior to the end of each fiscal year the council shall make a written report to the governor and the general assembly appraising the international export policies and programs of the Commonwealth; reviewing the extent to which international exports have provided employment and income; and, recommending to the governor and the general assembly international export policies and programs which will enhance the economic growth and development of the Commonwealth.

(3) Boards, commissions, agencies, departments and institutions of the Commonwealth shall assist the council and shall provide it with access to relevant records, data, information and statistics, unless such access is prohibited by law.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) “Authority” means the Kentucky export development authority created by this Act;

(2) “Commercial loss” means the failure of the buyer to pay the Kentucky exporter, when due, all or part of the gross invoice value of an eligible export transaction as such value is denominated in United States currency;

(3) “Eligible export transaction” means a loan to a participating banking organization to finance an international pre-export or export from the Commonwealth qualifying under the provisions of this Act;

(4) “Guaranteed funding” means a guarantee against commercial or political loss in whole or in part of the principal and interest on an eligible export transaction;

(4) “Participating banking organization” means any organization defined by KRS 287.010 and approved by the authority to participate in guaranteed funding for an eligible export transaction;

(6) “Political loss” means losses incurred by a Kentucky exporter in an eligible export transaction due to dollar transfer delays, war, revolution, license revocation, diversion of goods and other politically

related incidents. It shall not be considered a political loss if the shipment is in violation of the laws of the Commonwealth or the United States.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in state government an independent agency to be known as the Kentucky export development authority which shall be attached to the office of international marketing of the commerce cabinet for administrative purposes. The authority shall promote and develop the export of goods and services to foreign purchasers; cooperate with public and private organizations that promote trade activities in the Commonwealth; establish a source of funding credit guarantees and insurance not otherwise available to small and medium businesses; and provide financial counseling to potential and existing exporters.

(2) The authority shall consist of nine (9) members. Eight (8) members shall be appointed by the governor. The lieutenant governor shall be a member of the authority and shall be its chairman. Not more than four (4) of the appointed members shall belong to the same political party. All of the members shall be residents of the Commonwealth. Each of the appointed members shall be a person of recognized ability and experience in finance, international trade, business management and economics. Vacancies shall be filled in the same manner as the original appointments.

(3) The governor shall appoint the members of the authority for terms of three (3) years, except that three (3) of the initial appointments shall be made for a term of three (3) years, three (3) for a term of two (2) years, and two (2) for a term of one (1) year.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The members of the authority shall elect a secretary and vice-chairman annually, and may elect such other officers as they deem necessary. Five (5) members of the authority shall constitute a quorum. No less than five (5) members must approve an authorization of the issuance of any bonds or guaranteed funding under the provisions of this Act. Members of the authority shall not be entitled to compensation, but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

(2) The authority may exercise all powers necessary or appropriate to carry out the purposes of this Act, including the following powers, in addition to others granted herein:

(a) To provide financial counseling to businesses of the Commonwealth and otherwise to promote the expansion of the export of goods and services;

(b) To conduct hearings and other methods of examination on matters necessary to the determination of the feasibility of export projects;

(c) To cooperate with public and private organizations engaged in the promotion of export trade activities in the Commonwealth;

(d) To establish a source of funding credit guarantees and insurance to support export development, particularly for small and medium sized businesses;

(e) To borrow money and otherwise incur indebtedness for any of its purposes; to issue bonds, debentures, notes or other evidence of indebtedness, whether secured or unsecured;

(f) To purchase, discount, sell, negotiate with or without guaranty notes, other evidence of indebtedness, and to sell and guarantee securities;

(g) To procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and such other insurance as it may deem necessary;

(h) To procure insurance to secure the payment of principal and interest on any bonds, notes, or other obligations of the authority;

(i) To accept gifts or grants from any sources, and to enter into contracts or other transactions with any federal or state agency;

(j) To adopt regulations, as provided by KRS Chapter 13, necessary for the performance of its duties;

(k) To sue and be sued;

(l) To adopt, use, and alter at will a corporate seal; and

(m) To exercise all other powers and functions necessary or appropriate to carry out the duties and purposes set forth in this Act.

(3) The authority shall be exempt from all franchise, corporate, business and income taxes levied by the Commonwealth.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

On January 1 of each year, the authority shall submit a report of its activities for the preceding year to the governor and to the legislative research commission for transmittal to the general assembly. This report shall include a complete operating and financial statement. The authority shall be audited annually by the state auditor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS

FOLLOWS:

(1) The authority may provide guaranteed funding to an international pre-export or export transaction from the Commonwealth if it determines that the transaction will create or maintain employment in the Commonwealth; and, that twenty-five percent (25%) of its value is represented by goods or services whose final manufacturing process occurs in the Commonwealth. Guaranteed funding may include a pool of export transactions if each of the transactions in the pool qualify under the provisions of this section.

(2) The authority shall conduct an investigation of the credit of the exporter and shall make such other investigations as it deems necessary in order to determine the economic benefits to be derived from the transaction; the prospects for repayment; whether the guaranteed funding will facilitate the transaction and make it competitive with transactions in other states or countries; and, whether it is necessary in order to facilitate the resale of the export transaction to a holder in due course who would not otherwise purchase such export transaction.

(3) The participating banking organization shall loan the amount of the guaranteed funding provided by the authority to the exporter at the interest rate and term determined by the authority. The authority may condition the award of guaranteed funding upon such other terms and conditions necessary to carry out the purposes of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall guarantee, in writing, the specific amount payable under the guaranteed funding approved for the transaction. The guarantee may include, without limitation, insurance against loss up to an amount specified under the provisions of the guaranteed funding approved by the authority. Guaranteed funding approved by the authority shall not be terminated, cancelled, or otherwise revoked except in accordance with the terms thereof; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act; and, shall be valid and incontestable in the hands of a holder in due course. The authority may charge reasonable fees for providing guaranteed funding pursuant to the provisions of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority is hereby authorized to issue, sell and provide for the retirement of bonds in the amount of one hundred million dollars ($100,000,000) to provide funds for the creation and operation of the authority. The principal and interest shall be payable solely out of the revenues derived by the authority. Bonds issued under the provisions of this Act shall not constitute an indebtedness of the Commonwealth or the authority within the meaning of any state constitutional provision or statutory limitation. Such bonds shall be indebtedness payable solely from a revenue producing source or from a special source, which source does not include revenues from any tax or license, and shall not constitute or give rise to a liability of the Commonwealth or the authority or a charge against the general credit of the authority or the Commonwealth or taxing powers of the Commonwealth. This shall be plainly stated on the face of each bond.

(2) Such bonds may be executed and delivered at any time as a single issue or from time to time as several issues; shall be in registered form; may be payable in installments and at a time not exceeding five (5) years from their date of issue; may be subject to such terms of redemption and payable at a place or places as the authority determines. They may bear interest at a rate set by the authority, and may contain other provisions not inconsistent with the provisions of this Act. All terms and conditions shall be stated in the resolution of the authority authorizing the bonds. Any bonds issued under the provisions of this Act may be sold at public or private sale at such price and in such manner and from time to time as may be determined by the authority to be most advantageous. The authority may pay all expenses, premiums, insurance premiums and commissions which the authority may deem necessary in connection with the authorization, sale and issuance thereof from proceeds of the bonds.

(3) The resolution under which such bonds are authorized to be issued or any security agreement, including an indenture or trust indenture to be entered into in connection therewith, may contain any agreements and provisions customarily contained in instruments securing bonds, including but not limited to, provisions respecting the fixing and collection of obligations, the creation and maintenance of special funds, and the rights and remedies available, in the event of default, to the bondholders or to the trustee under such security agreement, as the authority shall deem advisable, except that these provisions shall not be in conflict with the provisions of this Act.

(4) The authority shall not have the power to obligate itself except with respect to eligible export transactions and shall not have the power to incur a liability or a charge upon the general credit of the authority or against the taxing powers of the Commonwealth. The resolution of the authority authorizing any bonds hereunder and any security agreement securing such bonds may provide that, in the event of default in payment of the principal or the interest on such bonds or in the performance of any agreement contained in such proceedings or security agreement, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect any obligations and to apply any revenues pledged in accordance with such proceedings or the provisions of such security agreement. Any

security agreement may provide also that in the event of default in payment or the violation of any agreement contained in the security agreement, it may be foreclosed by proceedings at law or in equity, and may provide that any trustee under the security agreement or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if he is the highest bidder. No breach of any such agreement shall impose any liability upon the Commonwealth or the authority or any charge upon the general credit of the authority or of the Commonwealth or against its taxing powers. The trustee or trustees under any security agreement, or any depository specified by such security agreement, may be such persons or corporations as the authority shall designate, notwithstanding that they may be a nonresident of the Commonwealth or incorporated under the laws of the United States or any state thereof.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any bonds issued under the provisions of this Act, and at any time outstanding, may at any time be refunded by the authority, by the issuance of its refunding bonds in such amount as the authority may deem necessary, not to exceed an amount sufficient to refund the principal of the bonds to be refunded, together with any unpaid interest thereon and any premiums, expenses and commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded have matured or shall thereafter mature, either by sale of the refunding bonds to be refunded, or by exchange of the refunding bonds for the bonds to be refunded thereby. The holders of any bonds to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable, or, if they are called the redemption, prior to the date on which they are by their terms subject to redemption. All refunding bonds issued under the authority of this Act shall be payable in the same manner and under the same terms and conditions as are herein provided for the issuance of bonds.

(2) The proceeds from the sale of any bonds shall be applied only for the purpose for which the bonds were issued, except that any premium and secured interest received in any such sale shall be applied to the payment or the principal of or the interest on the bonds sold. If, for any reason, any portion of the proceeds shall not be needed for the purpose for which the bonds were issued, such portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds.

(3) The proceeds of the bonds shall be kept in a separate fund to be known as the "export development bond fund". All other monies received by the authority shall also be deposited in this fund. The state treasurer may, with the approval of the board of directors of the authority, invest and reinvest all monies in such fund from time to time in such obligations of the United States government or such other governmental or corporate issuers as the treasurer, with the approval of the board of directors of the authority, deems appropriate. All earnings upon such investments shall be added to such fund.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The bonds authorized pursuant to this Act and the income therefrom shall be exempt from all taxation in the Commonwealth except for inheritance, estate or transfer taxes. All security agreements and financing agreements made pursuant to the provisions of this Act shall be exempt from state stamp and transfer taxes.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority is authorized to create an insurance fund consisting solely of funds from the export development bond fund. Such insurance fund shall be held in the custody of one (1) or more banks or trust companies having a principal place of business in the Commonwealth. The insurance fund shall be held as security for the holders of bonds issued under this Act. It shall be governed by a trust agreement entered into by the authority with the trustees. The trust agreement may contain such provisions and limitations as to the investment and disbursement of monies in the insurance fund, the payment of expenses of the insurance fund, the appointment, resignation and discharge of trustees, the delegation of enforcement and collection powers under the insurance agreements to the trustee, the duties of the trustees, amendments of the trust agreement and such other lawful provisions and limitations as may be deemed appropriate by the authority. The trust agreement may pledge premiums and other monies which may be deposited in the insurance fund. Such pledge shall be valid and binding from the time when the pledge is made. The premiums and other monies so pledged and thereafter received by the insurance fund, or by the trustees in its behalf, shall immediately be subject to the lien of such pledge and shall be valid and binding as against all parties having claims of any kind against the insurance fund, irrespective of whether such parties have notice thereof.

(2) The authority may also use export development bond funds to purchase insurance which shall be pledged for the security of the holders of any bonds issued under this Act. In any case in which insurance is pledged as security, whether obtained through the insurance funds authorized to be created under this section or purchased with export development bond funds, any description of such insurance shall expressly indicate the limitation of the liability of the authority and that neither the credit nor the taxing power of the Commonwealth or any political subdivision thereof shall be available to satisfy any obligations with respect thereto.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS

FOLLOWS:

The bonds, debentures, notes or other evidences of indebtedness of the authority are hereby made securities in which all public officers and bodies of the Commonwealth and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the Commonwealth may properly and legally invest funds including capital in their control or belonging to them. The bonds, debentures, notes or other evidences of indebtedness of the authority are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the Commonwealth and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized.

The Committee Substitute to **HB 702** is as follows:

HB 702, AN ACT relating to exports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a council which shall be known as the "Kentucky export council." The council shall be composed of nineteen (19) members appointed by the governor. The council shall be attached to the commerce cabinet for administrative purposes.

(2) The members of the council shall be residents of the Commonwealth and shall be appointed with a view to promoting and facilitating international exports from the Commonwealth. The council as a whole shall possess the broadest background and understanding of international export trade.

(3) Initial appointments of the members of the council shall be made as follows: six (6) of the members shall be appointed for a term of two (2) years each; six (6) of the members shall be appointed for a term of three (3) years each; six (6) of the members shall be appointed for a term of four (4) years each. Upon expiration of the terms of the initial appointees their successors shall each be appointed for a term of four (4) years. If a vacancy occurs, the governor shall appoint a successor for the remainder of the unexpired term. The council shall be nonpartisan and shall be appointed without reference to party affiliation. The members of the council shall serve without compensation. It is recommended that the governor designate the secretary of the commerce cabinet as chairman of the council. Prior to the first meeting of the council in each fiscal year, the governor shall appoint one (1) of the members of the council vice-chairman.

(4) The council shall meet quarterly and shall hold special meetings on the call of the chairman. Ten (10) members shall constitute a quorum. The council may adopt such administrative regulations as it may deem necessary to govern its procedures.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The council shall serve as the coordinating body for international exports of businesses of the Commonwealth. It shall use all resources available to it to enhance the international export capabilities of business in the Commonwealth. Immediately on being organized, the council shall review existing programs for the enhancement of international exports being carried on by the Commonwealth and make recommendations thereon. The council shall be assisted in carrying out its functions by the personnel of the commerce cabinet.

(2) At least thirty (30) days prior to the end of each fiscal year the council shall make a written report to the governor and the general assembly appraising the international export policies and programs of the Commonwealth; reviewing the extent to which international exports have provided employment and income; and, recommending to the governor and the general assembly international export policies and programs which will enhance the economic growth and development of the Commonwealth. The council shall particularly examine and study the merits of establishing an export development authority in the Commonwealth. The results of such examination shall be made a part of the written report.

(3) Boards, commissions, agencies, departments and institutions of the Commonwealth shall assist the council and shall provide it with access to relevant records, data, information and statistics, unless such access is prohibited by law.

HB 749, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government - Departments headed by elected officers:
1. The governor.
2. Lieutenant governor.
3. Department of state.
(a) Secretary of state.
(b) Board of elections.
4. Department of law.
(a) Attorney general.
5. Department of the treasury.
(a) Treasurer.
6. Department of agriculture.
(a) Commissioner of agriculture.
7. Department of education.
(a) Superintendent of public instruction.
(b) State board of education.
8. Auditor of public accounts.
9. Railroad commission.
II. Program cabinets headed by appointed officers:
1. Justice cabinet:
(a) Department of public advocacy.
(b) Department of state police.
(c) Department of training.
(d) Office of administration.
2. Education and humanities cabinet:
(a) Department for the blind.
(b) Department of education.
(c) Department for libraries and archives.
(d) Commission on human rights.
(e) Kentucky commission on women.
(f) State advisory council for vocational education.
(g) Kentucky industries for the blind.
(h) Kentucky educational television.
(i) Kentucky historical society.
(j) Kentucky teachers retirement system board of trustees.
(k) Kentucky school building authority.
3. Natural resource and environmental protection cabinet:
(a) Environmental quality commission.
(b) Kentucky nature preserves commission.
(c) Department for environmental protection.
(d) Department for natural resources.
(e) Department for surface mining reclamation and enforcement.
(f) Office of special projects.
(g) Office of administration.
(h) Office of general counsel.
(i) Office of communications and community affairs.
4. Transportation cabinet:

(a) Department of highways.
(b) Department of vehicle regulation.
(c) Office of administration and legal affairs.
(d) Office of comptroller.
(e) Office of legal affairs.
(f) Kentucky turnpike authority.
(g) Kentucky housing corporation.
(h) Kentucky airport zoning commission.
5. Commerce cabinet:
(a) Department of economic development.
(b) Department of the arts.
(c) Department of fish and wildlife resources.
(d) Department of parks.
(e) Kentucky development finance authority.
(f) Kentucky horse park.
6. Public protection and regulation cabinet:
(a) Public service commission.
(b) Department of insurance.
(i) Custodian of insurance securities.
(c) Department of labor.
(i) Workers compensation board.
(ii) Occupational safety and health standards board.
(iii) State labor relations board.
(d) Department of housing, buildings, and construction.
(e) Department of *financial institutions* [~~banking and securities~~].
(f) Department for mines and minerals.
(g) Department for alcoholic beverage control.
(h) Kentucky harness racing commission.
(i) Kentucky state racing commission.
(j) Kentucky occupational safety and health review commission.
(k) Registry of election finance.
(l) Board of claims.
(m) Crime victims compensation board.
(n) Kentucky board of tax appeals.
(o) Backside improvement commission.
7. Cabinet for human resources:
(a) Department for health services.
(b) Department for manpower services.
(c) Department for social insurance.
(d) Department for social services.
(e) Unemployment insurance commission.
(f) Public assistance appeals board.
(g) Office of administrative services.
(h) Office of communications and council affairs.
(i) Office of general counsel.
(j) Office of inspector general.
(k) Office of policy and budget.
(l) Office of the ombudsman.
8. Finance and administration cabinet:
(a) Office for policy management.
(b) Office for program administration.
(c) Department for administration.
(d) Department of facilities management.
(e) Department of personnel.
(f) Department of information systems.
(g) State property and buildings commission.
(h) Kentucky pollution abatement authority.
(i) Kentucky savings bond authority.
(j) Deferred compensation systems.
(k) Office of equal employment opportunity contract compliance.
(l) Capital plaza authority.
(m) County officials compensation board.

(n) Financial disclosure review commission.
(o) Kentucky employes retirement systems.
(p) Commonwealth credit union.
(q) State investment commission.
9. Energy and agriculture cabinet:
(a) Department of agriculture (headed by elected officer).
(b) Department of energy production and utilization.
(c) Department of energy research and development.
(d) Office of administration.
(e) Office of policy and evaluation.
(f) Kentucky state fair board.
(g) Kentucky council on agriculture.
(h) Kentucky fair and exposition center.
(i) Tobacco research board.
10. Corrections cabinet:
(a) Parole board.
(b) Commission on corrections and community services.
(c) Department of adult correctional institutions.
(d) Office of community services.
(e) Office of administrative services.
(f) Office of corrections training.
(g) Office of general counsel.
III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of revenue.
3. Council on higher education.
4. Department of local government.

Section 2. KRS 287.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Bank" includes every corporation authorized by this chapter to do a banking business;

(b) "State bank" means a bank or trust company organized pursuant to KRS Chapter 287;

(c) "National bank" or "national bank association" means a bank created by congress and organized pursuant to the provisions of federal law;

(d) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~];

(e) "Department" means the department of *financial institutions* banking and securities;

(f) "Population" means the population as indicated by the latest regular United States census; and

(g) "Trust company" includes every corporation authorized by this chapter to do a trust business;

(h) "Undivided profits" means the composite of the bank's net retained earnings from current and prior years' operations;

(i) "Capital stock" shall mean, at any particular time, the sum of:

1. The par value of all shares of the corporation having a par value that have been issued;

2. The amount of the consideration received by the corporation for all shares of the corporation that have been issued without par value except such part of the consideration as has been allocated to surplus in a manner permitted by law; and

3. Such amounts not included in *subparagraphs* [~~paragraphs~~] 1. and 2. of this *paragraph* [~~subsection~~] as have been transferred to stated capital of the corporation, whether through the issuance of stock dividends, resolution of the bank's board of directors under applicable corporate law or otherwise by law; and

(j) "Surplus" means the amount of consideration received by the corporation for all shares issued without par value that has not been allocated to capital stock or the amount of consideration received by the corporation in excess of par value for all shares with a par value or both.

(2) Whenever a corporation engages in the business of real estate title insurance and also a banking or trust business under the provisions of this chapter, the banking or trust business shall be regulated by this chapter and the real estate title insurance business shall be regulated by the laws relating to real estate title insurance companies.

Section 3. KRS 287.011 is amended to read as follows:

(1) There is created a department of *financial institutions* [~~banking and securities~~], which constitutes a department of the state government within the meaning of KRS chapter 12. The department shall be headed by a commissioner of *financial institutions* [~~banking and securities~~], who shall be the executive head of the department and shall be charged with the administration of the department.

(2) The department of *financial institutions* [~~banking and securities~~] shall exercise all administrative functions of the state in relation to the regulation, supervision, chartering and licensing of banks, trust companies, savings and loan associations, petty loan companies, investment and industrial loan companies,

and credit unions, and in relation to the regulation of securities. For administrative purposes the department may be divided into sections for each class of financial institution under jurisdiction of the department, and there shall be within the department, for regulation of securities, a division of securities, headed by a director who has had at least four (4) years' successful business experience and a division of banking to be headed by a director.

Section 4. KRS 287.012 is amended to read as follows:

The governor shall appoint as commissioner of *financial institutions* [~~banking and securities~~] a person knowledgeable in banking with not less than five (5) years' banking experience. For this purpose, "banking experience" means service as an executive in a bank located in Kentucky in a grade not lower than cashier, or service as a deputy commissioner or examiner in the department of banking and securities or in the former division of banking of Kentucky, or as director of former division of banking, or as former commissioner of banking.

Section 5. KRS 287.020 is amended to read as follows:

(1) The commissioner may prescribe, amend and repeal such rules, regulations, forms and orders as are necessary to interpret and carry out the provisions and intent of this chapter. He shall devise a seal for his department, a description of which, together with an impression thereof and a certificate of approval by the governor, shall be filed in the office of the secretary of state. The seal shall be renewed whenever necessary.

(2) The commissioner of *financial institutions* [~~banking and securities~~] and his deputies shall be allowed their necessary traveling and other expenses of conducting their office.

(3) The commissioner of *financial institutions* [~~banking and securities~~] may prescribe, amend and appeal regulations authorizing banks or trust companies to engage in any banking activity in which such banks could engage were they operating as national banks at the time such authority is granted, provided that this subsection shall not apply to activities which are expressly prohibited or limited by the statutes of the commonwealth.

(4) Nothing herein contained shall be construed to repeal, modify or alter the restrictions of KRS 287.105 relative to the leasing of motor vehicles, or of KRS 287.180 relative to the establishment of branches.

Section 6. KRS 287.025 is amended to read as follows:

The commissioner of *financial institutions* [~~banking and securities~~] may appoint a deputy commissioner with the prior written approval of the governor. The deputy commissioner shall, during the absence or inability of the commissioner or under his instructions, or in the event of a vacancy in the office of the commissioner and until the vacancy is filled, be vested with all the powers and perform all the duties of the commissioner.

Section 7. KRS 288.410 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~]; and

(b) "Licensee" means a person licensed under this chapter; and

(c) "Person" means an individual, partnership, association, trust, corporation and any other legal entity.

(2) This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, [~~trust, banking and title insurance companies,~~] building and loan associations, cooperative marketing associations, credit unions, loan and investment companies, or licensed pawnbrokers. This chapter does not apply to the purchase or acquisition, directly or indirectly, of notes, chattel mortgages, instalment or conditional sales contracts, embodying liens or evidencing title retention arising from the bona fide sale of goods or services by a seller of such goods or services.

Section 8. KRS 289.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Association" means a savings and loan association subject to the provisions of this chapter and as used in KRS 136.290, 136.300 and 136.310.

(2) "Combination home and business structure" means a building or buildings, including residences for not more than four families, which are used in part for business purposes. The residential use of such a building must be substantial and permanent, not merely transitory. The business use may predominate.

(3) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~].

(4) "Direct-reduction loan" means a loan repayable in consecutive weekly, monthly or semiannual instalments, equal or unequal, sufficient to retire the debt, interest, and principal; Provided, however, That the initial loan contract shall not provide for any subsequent monthly instalment of an amount larger than any previous monthly instalment; and, Provided further, That in the case of construction loans the first payment under said contract shall be made not later than twelve (12) months after the date of the first advance. Any such loan is an amortized loan.

(5) "Dividend" or "earnings" means that part of the net income of an association which is declared payable on savings accounts and savings certificates from time to time by the board of directors, and is the cost of savings money to the association. Dividend or earnings also may be referred to as "interest."

(6) "Gross income" means the sum for an accounting period of the following:

(a) Operating income.

(b) Real estate income.

(c) All profits actually received during such accounting period from the sale of securities, real estate, or other property.

(d) Other nonrecurring income.

(7) "Home" means a dwelling or dwellings for not more than four families, the principal use of which is for residential purposes. A home on a farm is a home.

(8) "Home loan" means a real estate loan the security for which is home property.

(9) "Home property" means real estate on which there is located, or will be located pursuant to a home loan, a home or a combination home and business structure.

(10) "Impaired condition" means a condition in which the assets of an association in the aggregate do not have a fair value equal to the aggregate amount of liabilities of the association to its creditors, including its members and all other persons.

(11) "Improved real estate" means real estate on which there is a structure or an enclosure, or which is cultivated, reclaimed, used for the purpose of agriculture in any form, or otherwise occupied, made better, more useful, or of greater value by care so as to produce an enjoyment thereof.

(12) "Insured association" means an association the savings accounts of which are insured in accordance with the provisions of this chapter.

(13) "Member" means a person holding a savings account or a savings certificate of an association, or a person borrowing from or assuming or obligated upon a loan or interest therein held by an association, or purchasing property securing a loan or interest therein held by an association. A joint and survivorship relationship, whether of investors or borrowers, constitutes a single membership.

(14) "Net income" means gross income for an accounting period less the aggregate of the following:

(a) Operating expenses.

(b) Real estate expenses.

(c) All losses actually sustained during such accounting period from the sale of securities, real estate or other property, or such portion of such losses as shall not have been charged to reserves, pursuant to the provisions of this chapter.

(d) All interest paid, or due but unpaid, on borrowed money.

(e) Other nonrecurring charges.

(15) "Net income available for dividends or earnings" means net income for an accounting period less amount transferred to reserves as provided in this chapter.

(16) "Operating expenses" means all expenses actually paid, or due but unpaid, by an association during an accounting period, excluding the following:

(a) Real estate expenses.

(b) Interest on borrowed money.

(c) Other nonrecurring charges.

That portion of prepaid expenses which is not apportionable to the period may be excluded from operating expenses, in which event operating expenses for future periods shall include that portion of such prepaid expenses apportionable thereto.

(17) "Operating income" means all income actually received by an association during an accounting period, excluding the following:

(a) Foreclosed real estate income.

(b) Other nonrecurring income.

(18) "Other real estate loan" means a real estate loan the security for which is real estate other than home property.

(19) "Real estate expenses" means all expenses actually paid, or due but unpaid, in connection with the ownership, maintenance, and sale of real estate (other than office building or buildings and real estate held for investment) by an association during an accounting period, excluding capital expenditures and losses on the sale of real estate.

(20) "Real estate income" means all income actually received by an association during an accounting period from real estate owned (other than from office building or buildings and real estate held for investment) excluding profit from sale of real estate.

(21) "Real estate loan" means any loan or other obligation secured by real estate, whether in fee or in a leasehold.

(22) "Savings account" means that part of the savings liability of the association which is credited to the account of the holders thereof.

(23) "Savings certificate" means that part of a savings account which is fully paid and is represented by a certificate.

(24) "Savings liability" means the aggregate amount of savings accounts and savings certificates of members, including dividends credited to such accounts, less redemptions and withdrawals. Savings liability

also may be referred to as "deposit."

(25) "Withdrawal value" means the amount credited to a savings account and savings certificate of a member, less lawful deductions therefrom, as shown by the records of the association.

(26) "Minor" means a person over fourteen (14) years of age and under eighteen (18) years of age.

(27) "Capital stock" as used in this chapter may be used interchangeable with the term savings account and savings certificate.

Section 9. KRS 290.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Corporation" means a credit union organized as provided in this chapter;

(2) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~]; and

(3) "Temporary loan" means any loan by a credit union which when made is payable not later than the next regular payday or, the next regular deduction pay period of the borrower.

Section 10. KRS 291.010 is amended to read as follows:

As used in KRS 291.020 to 291.110,

(1) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~];

(2) "Foreign investment company" means an investment company organized under the laws of any other state; and

(3) "Investment company" means any corporation, company, partnership or association organized for the purpose of placing or selling investment securities of any kind on any plan of payment, and providing for the redemption and retirement of such securities or any part thereof.

Section 11. KRS 291.410 is amended to read as follows:

As used in KRS 291.410 to 291.600, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~];

(2) "Certificate holder" means an industrial loan corporation organized under the provisions of KRS 291.410 to 291.600 to which a certificate, as defined in subsection (3) of this section, has been issued by the commissioner.

(3) "Certificate" means a written instrument issued by the commissioner authorizing the corporation therein named to do business under the provisions of KRS 291.410 to 291.600, except when used in the phrase "certificate of investment."

Section 12. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Director" means the director of the division of securities of the department of *financial institutions* [~~banking and securities~~];

(2) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "agent" does not include an individual who represents an issuer in:

(a) Effecting a transaction in a security exempted by subsections (1), (2), (3), (10), or (11) of KRS 292.400, or subsections (5), (9) or (12) thereof if no commission or other remuneration is received for the sale of such securities,

(b) Effecting transactions exempted by KRS 292.410 unless otherwise required, or

(c) Effecting transactions with existing employes, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition;

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) An agent, issuer, bank, savings institution, or trust company,

(b) A person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

(c) A person who has no place of business in this state if during any period of twelve consecutive months he does not direct more than fifteen offers to sell or to buy into this state in any manner to persons other than those specified in paragraph (b);

(4) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by a certified public accountant;

(5) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;

(6) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(7) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the

advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) A bank, savings institution, or trust company;

(b) A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) A broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;

(d) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) A person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400(1);

(f) A person who has no place of business in this state if:

1. His only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. During any period of twelve consecutive months he does not direct business communications into this state in any manner to more than five clients other than those specified in subparagraph 1., or

(g) Such other persons not within the intent of this subsection as the director may by rule or order designate;

(8) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued, and except that with respect to fractional undivided interests in oil, gas or other mineral rights, the term "issuer" means the owner of any such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of distribution;

(9) "Non-issuer" means not directly or indirectly for the benefit of the issuer;

(10) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(11) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(12) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1961;

(13) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas or other mineral rights; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract or variable annuity contract issued by any insurance company;

(14) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico;

(15) Nothing in this section shall be construed to affect the classification of property for ad valorem tax purposes.

Section 13. KRS 294.010 is amended to read as follows:

Unless the context otherwise requires:

(1) "Affiliate" means any person who directly or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with another person.

(2) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~].

(3) "Mortgage loan" means any loan secured by a mortgage on real property.

(4) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries is evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(5) "Mortgage loan company" means any person who directly or indirectly:

(a) Holds himself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien or mortgage on real property;

(b) Holds himself out for hire to serve as an agent for any person who has money to loan, which loan is or will be secured by a lien or mortgage on real property;

(c) Holds himself out as being able to make, purchase, place, sell or exchange loans secured by liens or mortgages on real property;

(d) Holds himself out as being able to service loans secured by liens or mortgages on real property;

(e) Holds himself out to be a loan broker.

(6) "Loan broker" means any person who engages in the business of purchasing wages or salaries or who acts as a go-between, finder or agent of a lender or borrower of money for the purpose of procuring a loan of money, or who engages in the business of guaranteeing or endorsing notes and other evidences of indebtedness.

Section 14. KRS 307.100 is amended to read as follows:

As used in KRS 307.110 to 307.180, unless the context requires otherwise:

(1) "Person" means an individual, corporation, partnership, joint venture, association, business trust, or any other form of business organization.

(2) "Remains" means the bodies of deceased persons, in whatever stage of decomposition, and cremated remains.

(3) "Cemetery" means any one or combination of more than one of the following in a place used or to be used and dedicated or designated for such purposes:

(a) A burial park, for earth interment.

(b) A mausoleum, for entombment.

(c) A columbarium, for inurnment.

(4) "Mausoleum" means a building or structure substantially exposed above ground used or intended to be used for the entombment of human remains, which is sold or offered for sale to the public.

(5) "Columbarium" means a structure or building substantially exposed above ground intended to be used for the inurnment of cremated remains and sold or offered for sale to the public.

(6) "Columbarium niche" means an inurnment space in a columbarium as defined herein.

(7) "Cemetery company" means any person, except a religious society, municipal corporation or fraternal burial association, that conducts the business of a cemetery.

(8) "Grave space" means a space of ground in a cemetery intended to be used for the interment in the ground of the remains of one human being.

(9) "Department" means the department of *financial institutions* [~~banking and securities~~].

(10) "Underground crypt" means a single unit entombment space in preplaced chambers below ground and also known as lawn crypt, westminister or belowground crypt.

(11) "Bank of underground crypts" means any construction unit of twenty or more underground crypts designed as a part of a belowground crypt program, whether physically connected or not, having a common drainage system.

(12) "Mausoleum crypt" means an entombment space in a mausoleum as defined herein.

(13) "Cemetery merchandise" means urns, memorials, monuments, markers, vases, foundations, memorial bases, and other similar personal property commonly sold by or used in cemeteries.

Section 15. KRS 316.310 is amended to read as follows:

As used in KRS 316.310 to 316.370 and 316.991, unless the context requires otherwise:

(1) "Department" means the department of *financial institutions* [~~banking and securities~~].

(2) "Financial institution" means a bank, trust company or savings and loan association authorized by law to do business in this state.

(3) "Pre-need burial contract" means a contract, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person whose body is to be disposed of; but does not mean the furnishing of a cemetery lot or mausoleum.

Section 16. KRS 360.215 is amended to read as follows:

In KRS 360.215 to 360.265 and 360.991, unless the context otherwise requires, the following words shall have the following meanings:

(1) "Annual finance charge formula," the method for converting a dollar finance charge into a percentage rate. The formula assumes that (a) all scheduled installments of a credit transaction are equal,

payable at equal intervals, and fall on due dates which are the same day of each month or other payment period as that on which the agreement is entered into and (b) the debtor makes all payments at the times and in the amounts scheduled. Based upon these assumptions, the "annual finance charge formula" is:

2PC

R = --------

A(N +)R equals the percentage rate. P equals the number of payment periods in one year (always twelve if monthly payments, four if quarterly payments, and fifty-two if weekly payments). C equals the finance charge. A equals the principal balance to be paid by the debtor. N equals the number of installments. Except as otherwise provided, a variance tolerance of one percent per annum in the percentage rate is hereby authorized in computations under this formula.

(2) "Base amount," the amount in a credit transaction in dollars of which the debtor will have the actual use, or which will be or is paid to the debtor or to another person on behalf of the debtor or from which additional costs, charges and fees are computed.

(3) "Closed-end credit," a credit for a specified amount which amount (a) constitutes a combination of the base amount, permitted charges which are charged to the debtor and the precomputed finance charge and (b) is payable in installments. The term includes any credit transaction in which the finance charge is precomputed, added on or discounted or where the amount of the planned interest is ascertainable at the time of the execution of the agreement, but does not include a home mortgage in which the finance charge is not precomputed and stated as a dollar amount but is determined by the periodic application of a rate of finance charges to outstanding balances of the credit.

(4) "Department," the department of *financial institutions* [~~banking and securities~~].

(5) "Commissioner," the commissioner of the department of *financial institutions* [~~banking and securities~~].

(6) "Credit transaction," an extension of credit or a loan evidenced by an agreement, promissory note or other instrument whether secured or not, under the terms of which a debtor undertakes or agrees to pay the debt at a stated time or over a period of time and for which the debtor pays or agrees to pay a finance, carrying or other charge.

(7) "Creditor," the person who extends credit in a credit transaction either as principal or as agent and who requires, as an incident to the extension of credit, the payment of a finance charge.

(8) "Debtor," a person to whom or on behalf of whom credit is primarily granted or who is primarily obligated to pay debt.

(9) "Finance charge," a charge made by a creditor, other than permitted charges, paid or payable directly or indirectly by the debtor to or for the account of the creditor and incurred solely because the transaction is a credit transaction and includes:

(a) All charges which are not permitted charges and which are designed primarily to increase the gross yield to a creditor in a credit transaction;

(b) Charges for investigating the credit or collateral and for commissions or brokerage for obtaining the credit paid or payable by the debtor irrespective of the person to whom they are paid or payable; and

(c) Charges for the cost of a credit transaction including interest, discount, add-on or however such charges may be designated.

(10) "Official fees," the fees and charges prescribed by law for registering or for filing, recording, or otherwise perfecting or releasing or satisfying a security interest in property related to a credit transaction which will actually be paid to public officials.

(11) "Organizations," a corporation, business trust, estate, trust, partnership or association or any other legal entity but not a natural person.

(12) "Percent per annum rate disclosure," the disclosure required or made under paragraph (g) of subsection (1) of KRS 360.220, and under other provisions of KRS 360.210 to 360.265.

(13) "Permitted charges," charges for services, expenses or the like related to a credit transaction, not in excess of amounts permitted by applicable law, if any, which are requested, agreed to or approved by the debtor (a) for official fees or taxes; (b) for insurance; (c) for delinquency or collection or which otherwise arise by reason of action or default of the debtor; (d) in home mortgage credits, customary brokers' fees and reasonable charges incurred for appraisal of the property, examination of title and the marketability of security, drafting of security instruments or documents and other customary closing costs; or (e) which are of value to the debtor separate and apart from the granting of credit, are reasonable in relation to benefits to the debtor and constitute a type of charge or actual charges which have been filed with the commissioner and as to which the commissioner has failed to notify the creditor in writing of objection within sixty days after the filing. If paid, incurred, or financed by the creditor and not otherwise charged to or paid by the debtor, permitted charges may be added to or included in the principal of the debt.

(14) "Principal balance," the sum of the base amount and permitted charges, if any, charged to the debtor.

(15) "Revolving credit," credit granted pursuant to an agreement related to a loan of money in which the debtor incurs from time to time debt which may be payable in installments and in which the debts

are debited to a running account.

(16) "Total loan balance," the sum of the base amount, permitted charges charged to the debtor, if any, and the finance charge.

Section 17. KRS 366.010 is amended to read as follows:

For the purposes of this chapter:

(1) "Person" means any individual, partnership, association, joint stock association, trust, or corporation, but does not include the United States Government or the government of this Commonwealth.

(2) "Licensee" means a person duly licensed by the commissioner pursuant to this chapter.

(3) "Check" means any check, draft, money order, personal money order, or other instrument for the transmission or payment of money.

(4) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission, or handling of money, whether such instrument be signed by the seller or by the purchaser or remitter or some other person.

(5) "Sell" means to sell, to issue, or to deliver a check.

(6) "Deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliverer signs the check.

(7) "Department" means the department of *financial institutions* [~~banking and securities~~].

(8) "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~], or his duly designated representative.

Section 18. KRS 386.510 is amended to read as follows:

As used in KRS 386.510 to 386.590, the following terms shall be construed to have the meaning set forth by this section, unless a contrary meaning clearly appears from the context:

(1) The term "trust institution" means any of the following corporations having trust powers and authorized to act in a fiduciary capacity under the laws of Kentucky: Any state bank or trust company incorporated under the laws of Kentucky and any national banking association incorporated under the laws of the United States and having its principal office in Kentucky.

(2) The term "investment adviser" of a fiduciary investment company means (a) any trust institution which, pursuant to contract with a fiduciary investment company possessing the qualifications provided by KRS 386.510 to 386.590, regularly furnishes advice to such investment company with respect to the desirability of investing in, purchasing or selling securities or other property or is empowered to determine what securities or other property shall be purchased or sold by such investment company, and (b) any person other than a trust institution, who, pursuant to contract with such trust institution, regularly performs substantially all of the duties undertaken by such trust institution.

(3) The term "fiduciary investment company" means a corporation which is an investment company as defined by the Act of Congress entitled "Investment Company Act of 1940" approved August 22, 1940, as amended, and is incorporated in accordance with the "Kentucky Business Corporation Act" as to constitute a medium for the investment of funds held by trust institutions and foreign trust institutions in a fiduciary capacity, either alone or with one or more co-fiduciaries.

(4) The term "supervisory agency" means (a) the comptroller of the currency of the United States with respect to any fiduciary investment company having a national banking association as an investment adviser, and (b) the commissioner of *financial institutions* [~~banking and securities~~] of the commonwealth of Kentucky with respect to any fiduciary investment company having a state bank as an investment adviser. The term shall mean the commissioner of *financial institutions* [~~banking and securities~~] of the commonwealth of Kentucky with respect to any fiduciary investment company which does not have an investment adviser.

(5) The term "foreign trust institution" means any state bank or trust company organized under the laws of any state other than Kentucky or any national banking association incorporated under the laws of the United States and having its principal office in some state other than Kentucky, which has trust powers and is authorized to act in a fiduciary capacity under the laws under which it was incorporated.

Section 19. The Reviser of Statutes shall change the name of the department of banking and securities to the "department of financial institutions" and the name ofthe commissioner of banking and securities to "commissioner of financial institutions" wherever these occur in the Kentucky Revised Statutes and specifically in each and every place such phrases appear in the following chapters or sections: 62.160, 99.200, 99.270, 136.310, 154.023, 155.160, 164.760, 246.060, 293.040, 301.21-090, 304.21-090, 316.350, 386.165, 386.570, 393.300, KRS Chapters 287, 288, 289, 290, 291, 292 and 294.

HB 817, AN ACT relating to nomination papers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the *following* form*:*

Notification and Declaration

Of ------ for nomination to the office of ------:
To ------ (county court clerk or secretary of state, as case may be).
Commonwealth of Kentucky.
------ County.

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ------ Party, I, ------ (name in full as desired on the ballot), do solemnly swear that I reside at No. ------ street in the City of ------, State of Kentucky, and that I am a registered ------ (party) voter in ------ precinct, City of ------; that I believe in the principles of the ------ Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of ------ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

I further solemnly swear that I am a bona fide candidate for nomination and am honestly seeking the office for which this notification and declaration is filed; that I expect to make a campaign for the nomination and am not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public; that I am in no sense a pretended, fictitious or "dummy" candidate and am not filing as candidate for the purpose of influencing or controlling or attempting to influence or control a selection of challengers or inspectors or officers of election; that it is my honest purpose and intention to be and remain a candidate through the primary election; that I have not been persuaded, urged, solicited, influenced or induced to file this notification and declaration by any person in furtherance of the interests of any other candidate.

(Signature of candidate)

Subscribed and sworn to before me by ------, this ------ day of ------, 19---.

(Signature of officer)

(Title of officer)
My commission expires ------

[~~prescribed by the state board of elections.~~]

The declaration shall be subscribed and sworn to by the person making it, before an officer authorized to administer an oath.

(3) At the time of filing his notification and declaration, the candidate shall file therewith an affidavit of two (2) reputable electors who are members of the party to which the candidate belongs. The affidavit shall be in the *following* form*:*

Commonwealth of Kentucky.
------ County.

We, ------ and ------, do solemnly swear that we are qualified electors and members of the ------ Party, and were affiliated with that party and supported its nominees at the last regular election; that we are residents and legal voters of the City of ------, County of ------, State of Kentucky; that we are personally acquainted with ------, who files the hereto attached notification and declaration, and we know him to be a discreet citizen and a member of the ------ Party, and that to the best of our knowledge and belief he has affiliated with and supported that party as defined in the primary election law; that he is a resident of the city, county and state set out in his notification and declaration; that we believe him to be qualified to fill the office of ------; and that he is a bona fide candidate and not running in the interest of any other candidate, group or faction or to promote any interest other than that of the public.

We do further solemnly swear that to the best of our knowledge and belief the said ------ is in good faith a candidate for nomination for said office, and that he is not merely becoming a pretended, fictitious or "dummy" candidate for the purpose of influencing or controlling the selection of challengers, inspectors or officers of election for the benefit or in the interest of any other candidate or group of candidates.

(Signatures of affiants)

Subscribed and sworn to before me by ------ and ------, this ---- day of ------, 19---.

(Signature of officer)

(Title of officer)
My commission expires------

[~~prescribed by the state board of elections.~~]

(4) The notification and declaration and the accompanying affidavits may be on the same or separate sheets, but shall be filed together. When so filed with the proper officer, and certified according to KRS 118.165, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter.

(5) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

HB 847, AN ACT relating to the reorganization of investigative responsibilities and powers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.030 is amended to read as follows:

The cabinet for human resources shall consist of the following major organizational units which are hereby created:

(1) Office of the secretary.

(2) The office for policy and budget. The office for policy and budget shall provide the secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy and the evaluation of programs. The office for policy and budget shall be headed by an administrator who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050.

(3) The office of the counsel. The office of the counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The office of the counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The office of the counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The attorney general, on the request of the secretary, may designate the general counsel as an assistant attorney general in accordance with the provisions of KRS 15.105.

(4) The office of the ombudsman. The office of the ombudsman shall provide a review of citizen complaints on services of the cabinet for human resources when such complaints cannot be resolved through normal administrative remedies. The office of the ombudsman shall be headed by an ombudsman who shall be appointed by the governor with the advice of the secretary. The ombudsman shall be directly responsible to the secretary.

(5) The office of administrative services. The office of administrative services shall be responsible for providing administrative support services within the cabinet for human resources. All fiscal, facility and information management functions of the cabinet shall be vested in the office of administrative services. The office of administrative services shall be headed by an executive director who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the office of administrative services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(6) The department for social insurance. The department for social insurance shall develop and operate all programs of the cabinet that provide income maintenance or income supplementation services and all social insurance benefit programs. The department for social insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The department for social insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for social insurance shall exercise authority over the department for social insurance under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(7) The department for health services. The department for health services shall develop and operate

all programs of the cabinet that provide health and mental health services and all programs for the prevention, detection, care, and treatment of physical and mental disability, illness, and disease. The department for health services shall be headed by a commissioner for health services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for health services shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for health services shall exercise authority over the department for health services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(8) The department for social services. The department for social services shall develop and operate all social service programs of the cabinet. The department for social services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the department for social services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary.

(9) The department for manpower services. The department for manpower services shall develop and operate all manpower development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the cabinet. The department for manpower services shall be headed by a commissioner for manpower services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for manpower services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for manpower services shall exercise authority over the department for manpower services under the direction of the secretary and shall fulfill only such responsibilities as delegated by the secretary.

(10) The office of the inspector general. The office of the inspector general shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted, *except as provided in Sections 2, 4 and 5 of this Act*;

(b) Such licensing and regulatory functions as the secretary may delegate; and

(c) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The office of the inspector general shall be headed by an inspector general who shall be appointed by the secretary with the approval of the governor. The inspector general shall be directly responsible to the secretary.

Section 2. KRS 194.505 is amended to read as follows:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining his qualification to receive benefits under any assistance program;

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting his eligibility for benefits;

(3) No person shall, with intent to defraud, knowingly use, attempt to use, acquire, transfer, forge, alter, traffic, counterfeit or possess a food stamp, food stamp identification card or medical identification card in any manner not authorized by law;

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that the same is in violation of the law, knowingly aid or abet any person in obtaining benefits to which such person is not legally entitled, or to obtain a benefit amount greater than that to which he is fully entitled;

(5) No person shall misappropriate or attempt to misappropriate a food stamp authorization to purchase card, food stamp identification card, medicaid identification card or misappropriate other benefits from any program with which he has been assigned responsibility, nor shall he knowingly fail to report any such activity when the same is clearly in violation of the law;

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct which advances the scheme or artifice;

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing the same to be in violation of the law;

(8) *The division of special investigations in the office of the attorney general shall conduct investigations for the purpose of identifying possible violations of this section.* The attorney general on behalf

of the Commonwealth of Kentucky may commence proceedings to enforce this section; and the attorney general shall in undertaking such actions exercise all powers and perform all duties which the prosecuting attorney would otherwise perform or exercise.

Section 3. KRS 194.515 is amended to read as follows:

For the purpose of enforcing the provisions of KRS 194.505, 205.850 and 341.990(5) and (6), and of investigating any assistance program administered by the cabinet, the designated agents of the cabinet *and of the office of the attorney general* shall have the same access to records maintained pursuant to KRS 17.150 as do peace officers.

Section 4. KRS 205.850 is amended to read as follows:

(1) Except as otherwise provided in KRS 205.510 to 205.630, no person shall knowingly solicit or receive any remuneration (including any kickback, bribe or rebate) for furnishing medical assistance benefits or in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service or item for which payment may be made pursuant to Title XIX of the Social Security Act;

(2) No person shall unlawfully make, offer or receive payment, rebate of a fee, or charge for referring an individual to another person for furnishing of benefits;

(3) No person shall enter into an agreement, combination or conspiracy with the intent to defraud the cabinet by obtaining or aiding another to obtain the payment or allowance of a fictitious, false or fraudulent claim;

(4) No person shall make, present, or cause to be made or presented to an employe or officer of the cabinet any false, fictitious or fraudulent statement, representation or entry in any application, claim, report or document used in determining rights to any benefit or payment or the extent of such entitlement to any benefit or payment, knowing such application, claim, report or document to contain any false, fictitious or fraudulent information;

(5) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, home health agency or other provider of services to the medical assistance program.

(6) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter; and

(b) Any amount paid by an employer to an employe (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(7) *The division of special investigations in the office of the attorney general shall conduct investigations for the purpose of identifying possible violations of this section.* The attorney general on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section; and the attorney general shall in undertaking such actions exercise all powers and perform all duties which the prosecuting attorney would otherwise perform or exercise.

SECTION 5. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

The division of special investigations in the office of the attorney general shall conduct investigations for the purpose of identifying possible violations of KRS 341.990(5).

Section 6. The General Assembly confirms the reorganization effected by Executive Order 83-218 of responsibilities for identifying possible fraud, misrepresentation or abuse in client assistance programs of the cabinet for human resources to the extent that such order is not otherwise confirmed by the Act.

HR 50, A RESOLUTION requesting the Legislative Research Commission through the Small Business Task Force to study and identify governmental activities that may be in competition with the private sector and to study the desirability of contracting out government services to the private sector.

WHEREAS, state government should not compete with its citizens through in-house production of any goods and services which are readily available at reasonable prices in the private sector; and

WHEREAS, the use of private contracts enables more revenue to be returned to the state through private contractors paying corporate income, sales and ad valorem taxes; and

WHEREAS, the General Assembly should assume a more active role in assessing the cost effectiveness and benefits of contracting services out to the private sector.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission through the Small Business Task Force is requested to study and identify governmental activities that may be in competition with the private sector and to study the desirability of contracting out government services to the private sector.

Section 2. The Small Business Task Force shall report its findings and recommendations to the Legislative Research Commission not later than November 30, 1985.

Section 3. Staff services to be utilized in completing this study are estimated to be $10,000. These services shall be provided from the regular commission budget and are subject to the limitation and other research responsibilities of the commission.

HJR 63, A JOINT RESOLUTION directing the formation of a special committee to study the Commonwealth's juvenile detention and placement system and to make recommendations for legislative action.

WHEREAS, many counties in Kentucky have no other pre-adjudicative placement for juveniles; and

WHEREAS, many counties place juveniles in jails in proximity to adults creating the possibility of harm; and

WHEREAS, there is a need for continued study of the state's juvenile detention and placement system and the collection of data;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is directed to appoint a special juvenile detention and placement committee to study the current placement system being used and to make recommendations for future legislative action. The committee shall consist of representatives from the Kentucky Association of Counties, the Kentucky Jailers' Association, the County Judge/Executive's Association, the Kentucky Magistrates and Commissioners Association, Kentucky Youth Advocates, a Kentucky member of the National Juvenile Detention Association, the Kentucky Juvenile Justice Commission, the Administrative Office of the Courts, the Kentucky District Judges Association, the Department of Education, the Cabinet for Human Resources, the Justice Cabinet, the Corrections Cabinet, the Finance Cabinet and the chairpersons of the House and Senate Committees of Judiciary-Criminal or their designees. A chairperson and vice-chairperson shall be appointed from the membership by the Legislative Research Commission.

Section 2. The committee shall oversee the collection of data on juvenile detention population and characteristics, detention financing and operational costs, service areas, detention facility conditions and other matters related to the detention of juveniles. All state departments and agencies, all counties and the officers and employees thereof shall cooperate with and assist the juvenile detention and placement study committee to effectuate the purposes of this section and shall make all records and data on jail population, financing, conditions and other matters related to juvenile detention accessible to the study committee.

Section 3. The committee shall consider and, as necessary, develop legislative proposals and recommendations for developing alternatives to detention, a juvenile pretrial release system, and a state subsidy program for local communities to support alternative programs. The committee shall report its findings and recommendations to the Legislative Research Commission on or before August 1, 1985.

Section 4. It is estimated that the operation of the committee and the provision of staff services will cost approximately $20,000. In addition, $20,000 is available from the Department of Justice for contractual services or similar committee expenses. Nothing herein shall preclude the study committee from applying for such federal funding as may be available to support the committee's work. Such sum is merely an estimate pursuant to House Rule 63. Services and staff support are to be provided by the Legislative Research Commission from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HR 66, A RESOLUTION relating to legislative branch consideration of matters relating to military and veterans affairs.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

SECTION 1. THAT THERE IS CREATED A NEW RULE 40A OF THE RULES OF THE HOUSE OF REPRESENTATIVES TO READ AS FOLLOWS:

There shall be a special committee of the house of representatives to be known as the special committee on military and veterans' affairs. The committee shall consist of five (5) members appointed by the committee *on committees pursuant to rule 39 of the rules of the house of representatives. One (1) member of the committee shall be a member of the minority party. The committee shall serve during each session of the general assembly to consider recommendations and concerns of organizations, individuals and groups that are concerned with military and veterans' affairs. The committee shall make recommendations to the standing committees that are considering resolutions and bills, including appropriations measures, relating to military and veterans' affairs.*

Section 2. That the legislative research commission is hereby requested to appoint a special interim subcommittee on military and veterans' affairs consisting of not more than seven (7) members of the general assembly, including members of the house of representatives and the senate and members of the majority and minority parties. The purpose of the special interim subcommittee on military and veterans' affairs shall be to provide a forum for the interim consideration of the recommendations and concerns of organizations, groups and individuals that are concerned with military and veterans' affairs and to make reports of its findings and recommendations to the appropriate interim joint committees.

SB 135, AN ACT relating to the organization of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government - Departments headed by elected officers:

1. The governor.

2. Lieutenant governor.

3. Department of state.

(a) Secretary of state.

(b) Board of elections.

4. Department of law.

(a) Attorney general.

5. Department of the treasury.

(a) Treasurer.

6. Department of agriculture.

(a) Commissioner of agriculture.

7. Department of education.

(a) Superintendent of public instruction.

(b) State board of education.

8. Auditor of public accounts.

9. Railroad commission.

II. Program cabinets headed by appointed officers:

1. Justice cabinet:

(a) Department of public advocacy.

(b) Department of state police.

(c) Department of training.

(d) Office of administration.

2. Education and humanities cabinet:

(a) Department for the blind.

(b) Department of education.

(c) Department for libraries and archives.

(d) [~~Commission on human rights.~~

~~(e) Kentucky commission on women.~~

~~(f)~~] State advisory council for vocational education.

(e)[~~(g)~~] Kentucky industries for the blind.

(f)[~~(h)~~] Kentucky educational television.
(g)[~~(i)~~] Kentucky historical society.
(h)[~~(j)~~] Kentucky teachers retirement system board of trustees.
(i)[~~(k)~~] Kentucky school building authority.
3. Natural resource and environmental protection cabinet:
(a) Environmental quality commission.
(b) Kentucky nature preserves commission.
(c) Department for environmental protection.
(d) Department for natural resources.
(e) Department for surface mining reclamation and enforcement.
(f) Office of special projects.
(g) Office of administration.
(h) Office of general counsel.
(i) Office of communications and community affairs.
4. Transportation cabinet:
(a) Department of highways.
(b) Department of vehicle regulation.
(c) Office of administration and legal affairs.
(d) Office of comptroller.
(e) Office of legal affairs.
(f) Kentucky turnpike authority.
(g) Kentucky housing corporation.
(h) Kentucky airport zoning commission.
5. Commerce cabinet:
(a) Department of economic development.
(b) Department of the arts.
(c) Department of fish and wildlife resources.
(d) Department of parks.
(e) Kentucky development finance authority.
(f) Kentucky horse park.
6. Public protection and regulation cabinet:
(a) Public service commission.
(b) Department of insurance.
(i) Custodian of insurance securities.
(c) Department of labor.
(i) Workers compensation board.
(ii) Occupational safety and health standards board.
(iii) State labor relations board.
(d) Department of housing, buildings, and construction.
(e) Department of banking and securities.
(f) Department for mines and minerals.
(g) Department for alcoholic beverage control.
(h) Kentucky harness racing commission.
(i) Kentucky state racing commission.
(j) Kentucky occupational safety and health review commission.
(k) Registry of election finance.
(l) Board of claims.
(m) Crime victims compensation board.
(n) Kentucky board of tax appeals.
(o) Backside improvement commission.
7. Cabinet for human resources:
(a) Department for health services.
(b) Department for manpower services.
(c) Department for social insurance.
(d) Department for social services.
(e) Unemployment insurance commission.
(f) Public assistance appeals board.
(g) Office of administrative services.
(h) Office of communications and council affairs.
(i) Office of general counsel.
(j) Office of inspector general.
(k) Office of policy and budget.

(l) Office of the ombudsman.
8. Finance and administration cabinet:
(a) Office for policy management.
(b) Office for program administration.
(c) Department for administration.
(d) Department of facilities management.
(e) Department of personnel.
(f) Department of information systems.
(g) State property and buildings commission.
(h) Kentucky pollution abatement authority.
(i) Kentucky savings bond authority.
(j) Deferred compensation systems.
(k) Office of equal employment opportunity contract compliance.
(l) Capital plaza authority.
(m) County officials compensation board.
(n) Financial disclosure review commission.
(o) Kentucky employes retirement systems.
(p) Commonwealth credit union.
(q) State investment commission.
9. Energy and agriculture cabinet:
(a) Department of agriculture (headed by elected officer).
(b) Department of energy production and utilization.
(c) Department of energy research and development.
(d) Office of administration.
(e) Office of policy and evaluation.
(f) Kentucky state fair board.
(g) Kentucky council on agriculture.
(h) Kentucky fair and exposition center.
(i) Tobacco research board.
10. Corrections cabinet:
(a) Parole board.
(b) Commission on corrections and community services.
(c) Department of adult correctional institutions.
(d) Office of community services.
(e) Office of administrative services.
(f) Office of corrections training.
(g) Office of general counsel.
III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of revenue.
3. Council on higher education.
4. Department of local government.
5. Kentucky commission on human rights.
6. Kentucky commission on women.

Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the office of the governor:

(1) Council on higher education (The state universities and colleges shall report through the council on higher education).
(2) Department of military affairs.
(3) Department of revenue.
(4) Department of local government.
(5) Kentucky commission on human rights.
(6) Kentucky commission on women.

Calendar

HB 671, HB 16, HB 612, HB 717, HB 781, HB 800, HB 812, SB 209, HB 735, HB 347, SB 239, SB 56, HB 609, HB 271, HB 430, HB 539, and **SB 16** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative LeMaster moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following Legislative Citation No. 87. Agreed.

The House of Representatives of the Commonwealth of Kentucky recognizes the Daniel's Creek One Room School and teacher Mr. Tim Salisbury, Floyd County, Kentucky, for your excellent contribution in providing educational opportunites for grades 1-6. We are very proud of your dedication in molding the character and providing training for children of your community in the only "One Room" school in Kentucky. Your school has educated families since the 1920's, as well as the 16 students currently enrolled which is a most noteworthy accomplishment.

This prestigious body salutes and applauds you for your leadership, objectives and achievements that have enhanced the great American tradition of a sound educational program for all Americans.

Representative LeMaster moved that the rules be suspended to act upon a Resolution. Agreed.

Representative McNutt moved the adoption of the following **HR 91:**

HR 91, A RESOLUTION honoring the Kentucky tourism industry.
WHEREAS, tourism represents the fifth largest industry in Kentucky; and
WHEREAS, the tourism industry brings more than two billion dollars into this state every year; and
WHEREAS, this money represents "clean dollars" brought into the state's economy; and
WHEREAS, each dollar brought into the state from the tourism industry turns over seven times in a community, and provides employment for hundreds of citizens; and
WHEREAS, the tourism industry includes a wide range of entertainment activities including boating, hiking, camping, and conventions;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the commendable service the tourism industry has provided to Kentucky.
Section 2. That this honorable body recognizes the tourism industry's importance to the economic strength of this state.

HR 91 was adopted by voice vote.

HB 670, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of the Committee Amendment No. 1 to **HB 670.** Agreed.

Representative Freibert moved the adoption of the Floor Amendment No. 1 to **HB 670.** Agreed.

Representative Freibert moved that **HB 670,** as amended, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 1-Worthington.

HB 670, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 670**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 605, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 605**. Agreed.

Representative Moberly moved the adoption of the Committee Substitute to **HB 605**. Agreed.

Representative Moberly moved that **HB 605**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 64-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Johnson, R. Jones, T. Jones, Kenton, LeMaster, Lile, List, Little, Long, Lundergan, Mann, McBee, Meyer, Moberly, Nett, Noe, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, F. Smith, Stone, Stumbo, Thomas, Van Horn, Williams, Worthington, Yates. Nays 27-Allen, Brown, Bruce, Crupper, Dawahare, Ellington, Endicott, Ford, Foster, Fryman, Guenthner, Heleringer, Holloway, Layman, Lefevers, McElroy, McNutt, Moore, Noland, Patrick, Pearman, B. Richardson, Robinson, B. Smith, Todd, Turner, White.

HB 605, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 605**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 707 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 707** be passed.

On the roll call the vote was yeas 94-Allen, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington. Nays 0.

HB 707 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 707** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 81 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 81** be passed.

On the roll call the vote was yeas 88-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 3-Allen, Patrick, Turner.

SB 81 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 81** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 650, as amended by Committee Amendment No. 1 and Floor Amendment No. 1, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

Representative Dunn moved that the vote by which Committee Amendment No. 1 to **HB 650** was adopted be reconsidered. Agreed.

Representative Lundergan moved the adoption of the Floor Amendment No. 2 to **HB 650.** Agreed.

Representative Lundergan moved the adoption of the Floor Amendment No. 2 to **HB 650.** Agreed.

Representative Lundergan moved that **HB 650,** as amended, be passed.

On the roll call the vote was yeas 46-Bendl, Bennett, Blandford, Brinkley, Bronger, Bruce, Burch, Clapp, L. Clark, P. Clark, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Farrow, Foster, Gedling, Hancock, Holbrook, Johnson, LeMaster, Little, Lundergan, McBee, McElroy, Meyer, Moberly, Morris, O'Brien, Petty, Priddy, Rapier, Richards, B. Richardson, P. Richardson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Yates. Nays 41-Allen, Barrows, Brown, Caldwell, Clarke, Cline, Cowan, Craddock, Ellington, Endicott, Ford, Freibert, Fryman, Gray, Guenthner, Harper, Head, Heleringer, Holloway, R. Jones, Layman, Lefevers, Lile, Long, Maggard, Mann, McNutt, Moore, Nett, Noe, Noland, Patrick, Pearman, Perkins, Rattliff, Reinhardt, Robinson, Todd, Turner, White, Worthington.

HB 650, as amended, was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 650,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 552, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Amendment No. 1 to **HB 552.** Agreed.

Representative Richards moved that **HB 552,** as amended, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Clarke.

HB 552, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 552,** as amended, was passed be

reconsidered and said motion be placed on the table. Agreed.

HB 616 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that **HB 616** be passed.

On the roll call the vote was yeas 84-Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, R. Jones, Kenton, Kidd, Lefevers, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 8-Allen, Endicott, Fryman, T. Jones, Layman, Overstreet, Pearman, Turner.

HB 616 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 616** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 166, HB 451,** and **HB 508** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:50 p.m.)

HB 166, HB 451, and **HB 508,** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 573 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 573** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 573 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 573** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 721, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that **HB 721** be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 721 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 721** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 46, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment No. 2 to **HB 46**. Agreed.

Representative Hancock moved that **HB 46,** as amended, be passed.

On the roll call the vote was yeas 96-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 46, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 46,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 346, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of the Committee Amendment No. 3 to **HB 346.** Agreed.

Representative Worthington moved that **HB 346,** as amended, be passed.

On the roll call the vote was yeas 34-Arnold, Barrows, Blandford, Blevins, Brinkley, Burch, Burnette, P. Clark, Curd, Dawahare, Donnermeyer, Ellington, Gray, T. Jones, Kenton, LeMaster, List, Lundergan, Maggard, Mann, McBee, Meyer, Moberly, Noe, O'Brien, Perkins, Rapier, Riner, Seum, F. Smith, Stone, Thomas, White, Worthington. Nays 56-Allen, Bendl, Bennett, Bronger, Caldwell, Clapp, L. Clark, Clarke, Cowan, Craddock, Crupper, Cyrus, Deskins, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, Layman, Lefevers, Lile, Little, Long, McElroy, McNutt, Moore, Nett, Noland, Overstreet, Patrick, Pearman, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, Stumbo, Thomason, Todd, Turner, Van Horn, Williams, Yates.

HB 346, as amended, was defeated.

HB 36, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 35** is as follows:

Amend printed copy of **HB 36** as follows:

On page 1, line 13 by deleting "*262.700 to 262.990,*".

Representative Long moved that the House concur in the Senate Amendment to **HB 36**. Agreed.

Representative Long moved that **HB 36,** as amended by the Senate, be passed.

On the roll call the vote was yeas 80-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, L. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Perkins, Petty, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, White, Williams, Worthington, Yates. Nays 8-Allen, Deskins, Farrow, McElroy, Overstreet, Pearman, Turner, Van Horn.

HB 36, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 36,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 41, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 41** is as follows:

Amend printed copy of **HB 41** as follows:

On page 3, line 5 delete "*appears*" and insert in lieu thereof "*is proven beyond a reasonable doubt*";

And on page 7, line 13 delete "*transfer to*" and insert in lieu there of "*sale by.*"

Representative P. Clark moved that the House concur in the Senate Amendment to **HB 41**. Agreed.

Representative P. Clark moved that **HB 41,** as amended by the Senate, be passed.

On the roll call the vote was yeas 87-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-F. Smith.

HB 41, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 41,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 42, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 42** is as follows:

Amend printed copy of **HB 42** as follows:

On page 3, by deleting lines 24 through 26 in their entirety;

And on page 4, by deleting lines 1 through 15 in their entirety, and by inserting in lieu thereof the following:

"*Every authorized insurance company shall, within one calendar week following the end of its accounting month, send to the department of vehicle regulation a list of all persons insured by it whose policy was terminated by either cancellation or non-renewal during such accounting month. Such list shall include a description of each vehicle insured under such terminating policy.*

[~~(7) Every authorized insurance company which cancels any contract of insurance required by KRS 304.080(5) in accordance with KRS 304.20-040(2) shall provide the commissioner of the bureau of state police notice of such cancellation as well as with notice to the insured.~~]

[~~(8) Every authorized insurance company shall provide notice of cancellation to the commissioner of the bureau of state police within thirty (30) days following the voluntary cancellation of a policy of insurance required by KRS 304.39-080(5) by a policy holder during the policy period.~~]"

And on page 4, after line 15, by inserting the following:

"*(2) It shall be lawful for an authorized insurance company to present the information required by subsection (1) herein by compatible computer tape approved by the department of vehicle regulation.*"

And on page 13, line 23, by deleting "*(a)*";

And on page 14, line 1, by deleting the period "."; and by deleting lines 2 through 9 in their entirety and by inserting in lieu thereof the following: "; provided, however, that where cancellation is for nonpayment of premium at least *fourteen (14)* [~~ten (10)~~] days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals."

Representative Holbrook moved that the House concur in the Senate Amendment to **HB 42.** Agreed.

Representative Holbrook moved that **HB 42,** as amended by the Senate, be passed.

Representative Worthington moved that a fiscal impact note be included on **HB 42,** as amended by the Senate.

The Chair ruled a fiscal note was not in order.

Representative Holbrook moved that **HB 42,** as amended by the Senate, be passed.

Representative Worthington moved that **HB 42,** as amended by the Senate, be placed on the Clerk's desk.

The Chair ruled a motion to place on the Clerk's desk was not in order.

Representative Seum inquired if a motion to lay on the table would be in order.

The Chair ruled a motion to lay on the table would not be in order.

Representative Worthington moved that **HB 42,** as amended by the Senate, be referred to a Committee.

The Chair ruled the motion to send to a committee was out of order.

The Chair reconsidered the ruling to refer **HB 42,** as amended by the Senate, to Committee.

Representative Holbrook moved that **HB 42,** as amended by the Senate, be passed.

Representative Worthington moved that **HB 42,** as amended by the Senate, be recommitted to the Committee on Appropriations and Revenue for fiscal impact study.

The Chair ruled the motion out of order.

Representative Worthington moved that **HB 42,** as amended by the Senate, be recommitted to the Committee on Appropriatons and Revenue.

Representative Holloway inquired of the Chair, since having concurred in the Senate Amendment to **HB 42,** if the motion were in order.

The Chair ruled the motion was in order.

On the roll call the vote was yeas 32-Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Burnette, Clarke, Cline, Crupper, Curd, Dawahare, Donnermeyer, Ellington, Farrow, Hancock, Kenton, LeMaster, Lundergan, Mann, McBee, Moberly, Perkins, Petty, Robinson, Seum, Stone, Thomas, Thomason, White, Worthington. Nays 57-Allen, Bennett, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cowan, Craddock, Cyrus, Deskins, Dunn, Endicott, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, R. Jones, Layman, Lefevers, Lile, List, Little, Long, Maggard, McElroy, McNutt, Meyer, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, F. Smith, Stumbo, Todd, Turner, Van Horn, Williams, Yates.

The motion that **HB 42,** as amended by the Senate, be recommitted to the Committee on Appropriations and Revenue was rejected.

Representative Holbrook moved that **HB 42,** as amended by the Senate, be passed.

On the roll call the vote was yeas 67-Allen, Bennett, Blandford, Brinkley, Bronger, Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Cyrus, Deskins, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Handy, Harper, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, Riner, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Turner, Van Horn, Williams, Yates. Nays 25-Arnold, Barrows, Bendl, Blevins, Burnette, Clarke, Crupper, Curd, Dawahare, Donnermeyer, Farrow, Gray, Hancock, Head, T. Jones, Kenton, Little, Mann, McNutt, Perkins, Priddy, Robinson, Stone, White, Worthington.

HB 42, as amended by the Senate, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 42,** as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 67, with Senate Amendment attached thereto, taken from Orders of the Day. Representative LeMaster moved that it be placed upon its passage. Agreed.

The Senate Amendment to **HB 67** is as follows:

Amend printed copy of **HB 67** as follows:

On page 3, line 3, by deleting the words "*twenty percent (20%)*" and inserting in lieu thereof, the words "*fifteen percent (15%)*".

Representative Bruce moved that the House concur in the Senate Amendment to **HB 67.**

Representative Patrick moved that **HB 67** be recommitted to the Committee on Banking and Insurance for a report on concurrence.

On the roll call the vote was yeas 33-Allen, Arnold, Barrows, Burnette, Caldwell, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Farrow, Ford, Fryman, Gedling, Harper, T. Jones, Layman, Maggard, Mann, McBee, Moberly, Noland, Patrick, Pearman, Perkins, Rapier, Reinhardt, B. Richardson, Robinson, Seum, F. Smith, Todd, Worthington. Nays 64-Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Cyrus, Deskins, Dunn, Ellington, Endicott, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lefevers, Lemaster, Lile, List, Little, Long, Lundergan, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noe, O'Brien, Petty, Priddy, Rattliff, Richards, P. Richardson, Riner, B. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Williams, Yates.

The motion that **HB 67** be recommitted to the Committee on Banking and Insurance for a report on concurrence was rejected.

On the roll call the vote was yeas 58-Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Deskins, Dunn, Endicott, Freibert, Gray, Guenthner, Handy, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Lundergan, McElroy, McNutt, Meyer, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Perkins, Priddy, Rattliff, Richards, P. Richardson, Riner, B. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Yates. Nays 40-Allen, Arnold, Barrows, Brown, Burnette, Caldwell, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Foster, Fryman, Gedling, Hancock, Harper, Head, T. Jones, Layman, Long, Maggard, Mann, McBee, Moberly, Noland, Patrick, Pearman, Petty, Rapier, Reinhardt, Robinson, Seum, F. Smith, Todd, Turner, Worthington.

The motion that the House concur in the Senate Amendment to **HB 67** was adopted.

Representative Bruce moved that **HB 67**, as amended by the Senate, be passed.

On the roll call the vote was yeas 54-Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Clapp, P. Clark, Clarke, Cline, Cowan, Craddock, Deskins, Dunn, Endicott, Freibert, Gray, Guenthner, Handy, Heleringer, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Lundergan, McNutt, Moore, Morris, Nett, Noe, O'Brien, Priddy, Rattliff, Richards, P. Richardson, Riner, B. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Yates. Nays 45-Allen, Arnold, Barrows, Brown, Burnette, Caldwell, L. Clark, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Ellington, Farrow, Ford, Foster, Fryman, Gedling, Hancock, Harper, Head, T. Jones, Layman, Long, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Noland, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Reinhardt, B. Richardson, Robinson, Seum, F. Smith, Todd, Turner, Worthington.

HB 67, as amended by the Senate, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 67**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that the House refuse to concur in the Senate Amendment to **HB 110**. Agreed.

The Senate Amendment to **HB 110** is as follows:

Amend printed copy of **HB 110** as follows:

Page 2, line 1, after the word "*agency*" by inserting the words "*that are exempt from disclosure under KRS 61.878*".

Report on Enrolled Bills

The Committee on Enrollment reported **SB 81** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:38 p.m.)

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended to waive the posting requirement on **HB 222**. Agreed.

Representative LeMaster moved that the rules be suspended for Introduction of a Resolution and Report of Committees. Agreed.

Introduction of Resolution

HR 115, by Representatives Burnette, McNutt, Bruce, Clapp, and B. Richardson: A RESOLUTION declaring Thursday, March 15, 1984, to be "Fred Morgan Day" in the House of Representatives and adjourning in honor thereof.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 728, HB 882, HB 948, HB 1019, HB 835, HB 836, HB 382, HB 864, SB 132, HJR 58, HJR 95, HB 280, HCR 86.**

Natural Resources and Environment: **HJR 99, HB 857, HB 1001, HB 830.**

Health and Welfare: **HB 839, HB 845, HB 846, HB 859, HB 880, HB 947, HB 949, HB 952, HB 964, HB 955, HB 998, HB 999, HB 995.**

Counties and Special Districts: **HB 900, HCR 96.**

Energy: **HB 222.**

Education: **HB 668, HB 1009, HB 986.**

Banking and Insurance: **HB 901, HB 916, HB 1011, HB 907.**

Appropriations and Revenue: **HB 962.**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 710**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 710, AN ACT relating to mussels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150.525 to 150.600 IS CREATED TO READ AS FOLLOWS:

(1) It shall be lawful to take mussels by the use of diving gear under at least the following conditions:
(a) The diver shall wear a wet suit when underwater;
(b) Oxygen supply tanks shall be filled only by an oil-free compressor;
(c) Compressors shall have at least a three-minute reserve supply of oxygen;
(d) When diving from a boat, a person shall be in the boat to render assistance to the diver; and
(e) Mussels or mussel shells may be taken only from sunrise to sunset.
(2) The following are the minimum sizes for the legal taking of mussels:
(a) Amblema plicata (three-ridge), three (3) inches in diameter;
(b) Megalonaias gigantea (washboard), three (3) inches in diameter; and
(c) Quadrula quadrula (mapleleaf), two and one-half (2 1/2) inches in diameter.
(3) There are no minimum sizes for the legal taking of any other specie of mussels unless so declared by the department for the protection of the specie.

Section 2. KRS 150.110 is amended to read as follows:

The commissioner and conservation officers may arrest without warrant anyone violating any of the provisions of KRS 150.510, [~~and~~] 150.520, *Section 1 of this Act* or any of the rules and regulations made by the deartment for the protection of mussels under this chapter. They may inspect mussels in any warehouse, boat, store, car or receptacle when they have good cause to believe that any of the provisions of KRS 150.510,

[~~and~~] 150.520, *Section 1 of this Act* or any of the rules or regulations made thereunder have been or are being violated. This authority does not include the right to enter any dwelling house without a search warrant. When the officers find mussels in the possession of anyone in violation of this chapter, the mussels shall be confiscated and sold in the manner provided by KRS 150.120 for the sale of confiscated fish and game.

Section 3. KRS 150.225 is amended to read as follows:

The department of fish and wildlife resources shall, by its commission, prescribe reasonable license fees relating to hunting, fishing, and trapping. Provided, however, the department shall set no private license fee at less than one dollar ($1.00) nor more than one hundred dollars ($100), and no commercial license fee at less than two dollars ($2.00) nor more than five hundred dollars ($500), *except as provided in Section 4 and Section 5 of this Act.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 150.525 TO 150.600 IS CREATED TO READ AS FOLLOWS:

(1) The annual fee for a resident of this state to obtain a license for taking mussels shall be fifty dollars ($50); for a nonresident it shall be two thousand dollars ($2,000).

(2) A license to take mussels shall not be issued to a nonresident of this state until five (5) years after the effective date of this Act.

Section 5. KRS 150.525 is amended to read as follows:

No person may engage in the buying of mussel shells or mussels in the shell in this state unless he has in his possession a license authorizing him to do so. The annual fee for such license shall be *two thousand dollars ($2,000)* [~~one hundred dollars ($100)~~] for a resident of this state, and *thirty thousand dollars ($30,000)* [~~three hundred dollars ($300)~~] for a nonresident of this state. Such license shall be issued by the department, either directly or through such county clerks as the commissioner may designate for the purpose.

The Committee Amendment No. 1 to **HB 710** is as follows:

Amend printed copy of **HB 710** on page 1, lines 5 and 6, by deleting "*wear a wet suit when under water*" and substituting therefor "*be a certified diver*".

The Committee on Judiciary-Civil reported **HB 304** with Committee Substitute attached thereto, **HB 513, HB 582, HB 646** with Committee Amendment attached thereto, **HB 686, HB 701, HB 780,** and **SB 133** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 304, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271A.475 is amended to read as follows:

(1) The circuit courts shall have full power to liquidate the assets and business of a corporation:

(a) In an action by a shareholder when it is established:

1. That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

2. That the acts of the directors or those in control of the corporation are illegal or fraudulent; or

3. That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors*; or*

4. If a corporation for profit, there is internal dissension and two (2) or more factions of shareholders are so divided that dissolution would be beneficial to the shareholders: or the corporation has substantially ceased to do business, and the majority of the shareholders are withholding from a minority of the shareholders their rightful share of corporate assets to which they should be entitled upon dissolution by failing or refusing to vote their shares in favor of dissolution without a valid business reason for such failure or refusal; or

5. In such other circumstances as the circuit judge, in his discretion, deems advisable for the benefit of the corporation or its shareholders.

(b) In an action by a creditor:

1. When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

2. When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this chapter, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the Attorney General to revoke or forfeit a corporation's charter and it is established that liquidation of its business and affairs should precede the entry of a decree of revocation or forfeiture.

(2) Proceedings under paragraph (a), (b) or (c) of *subsection (1) of* this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

(3) It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

The Committee Substitute to **HB 304** is as follows:

HB 304, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271A.475 is amended to read as follows:

(1) The circuit courts shall have full power to liquidate the assets and business of a corporation:

(a) In an action by a shareholder when it is established:

1. That the directors are deadlocked in the management of the corporate affairs and the shareholders are unable to break the deadlock and that irreparable injury to the corporation is being suffered or is threatened by reason thereof; or

2. That the acts of the directors or those in control of the corporation are illegal, *oppressive,* or fraudulent; or

3. That the shareholders are deadlocked in voting power, and have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors*; or*

4. If a corporation for profit, there is internal dissension and two (2) or more factions of shareholders are so divided that dissolution would be beneficial to the shareholders: or the corporation has substantially ceased to do business, and the majority of the shareholders are withholding from a minority of the shareholders their rightful share of corporate assets to which they should be entitled upon dissolution by failing or refusing to vote their shares in favor of dissolution without a valid business reason for such failure or refusal; or

5. In such other circumstances as the circuit judge, in his discretion, deems advisable for the benefit of the corporation or its shareholders.

(b) In an action by a creditor:

1. When the claim of the creditor has been reduced to judgment and an execution thereon returned unsatisfied and it is established that the corporation is insolvent; or

2. When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(c) Upon application by a corporation which has filed a statement of intent to dissolve, as provided in this chapter, to have its liquidation continued under the supervision of the court.

(d) When an action has been filed by the Attorney General to revoke or forfeit a corporation's charter and it is established that liquidation of its business and affairs should precede the entry of a decree of revocation or forfeiture.

(2) Proceedings under paragraph (a), (b) or (c) of *subsection (1) of* this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

(3) It shall not be necessary to make shareholders parties to any such action or proceeding unless relief is sought against them personally.

HB 513, AN ACT relating to statutory liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.010 is amended to read as follows:

(1) Any person who performs labor or furnishes materials for the erection, altering or repairing of a house or other structure or for any fixture or machinery therein, for the excavation of cellars, cisterns, vaults, wells or for the improvement in any manner of real property including the furnishing of agricultural lime,

fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, contractor, subcontractor, architect or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made or on any interest the owner has therein, to secure the amount thereof with interest as provided in KRS 360.040 and costs. The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials. The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.

(2) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county wherein he has furnished or expects to furnish labor or materials, a statement showing that he has furnished or expects to furnish labor or materials, and the amount in full thereof. The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement. The statement shall, in other respects, be in the form prescribed by KRS 376.080.

(3) No person who has not contracted directly with the owner or his agent shall acquire a lien under this section unless he notifies in writing the owner of the property to be held liable or his authorized agent, within seventy-five (75) days on claims amounting to less than one thousand dollars ($1,000) and one hundred twenty (120) days on claims in excess of one thousand dollars ($1,000) after the last item of material or labor is furnished, of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to his duly authorized agent within the county in which the property to be held liable is located.

(4) No person who has not contracted directly with the owner-occupant or his authorized agent shall acquire a lien under this section on an owner-occupied single or double family dwelling or the appurtenances or additions thereto unless he notifies in writing the owner-occupant of the property to be held liable or his authorized agent not more than *forty-five (45)* [~~ten (10)~~] days after the first item of material or labor is furnished, of the delivery of the material or performance of labor and of his intention to hold the property liable and the amount for which he will claim a lien. It shall be sufficient to prove that the notice was mailed to the last known address of the owner-occupant of the property upon which the lien is claimed, or to his duly authorized agent. This notice is in lieu of the notice provided for in subsection (3) *of this section*. Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an owner-occupant of a single or double family dwelling has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect or authorized agent for work performed or materials furnished prior to such payment. The contractor or subcontractor cannot be the authorized agent under this subsection.

HB 582, AN ACT relating to limitation of actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) The statute of limitations for purposes of adverse possession shall not run against any owner of real property as long as he pays the taxes on the property before they become delinquent.

(2) If at any time the owner of the property does not pay the taxes on his property before they become delinquent, the statute of limitations for purposes of adverse possession may run, as long as the other elements of adverse possession are present, but shall stop running when the taxes due on the property have been paid by the owner.

HB 646, AN ACT relating to real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) Whenever any owner of real property is requested by a prospective buyer of the realty to have a structural examination of the realty, and the owner has such examination, he shall furnish a copy of the examination report to the buyer.

(2) Any person who violates subsection (1) of this section is guilty of a Class A misdemeanor. Payment by the owner for the structural examination shall not be a defense.

The Committee Amendment to **HB 646** is as follows:

Amend printed copy of **HB 646** on page 1, by deleting lines 8 through 11 in their entirety and inserting in lieu thereof the following:

"*(2) The failure to provide a copy of the structural examination shall be grounds for rescission of any contract entered into or such other relief as the court may deem appropriate.*"

HB 686, AN ACT relating to statutory liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

As used in KRS 376.270 and 376.275, "motor vehicle" shall include vessels used or designed for navigation of or operation on waterways, rivers, lakes, and streams, as well as those used or designed for operation on the public highways.

HB 701, AN ACT relating to district courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.030 is amended to read as follows:

The state is divided into judicial districts, each to be composed of the following counties:

(1) First judicial district. Ballard, Carlisle, Fulton and Hickman.
(2) Second judicial district. McCracken.
(3) Third judicial district. Christian.
(4) Fourth judicial district. Hopkins.
(5) Fifth judicial district. Crittenden, Union and Webster.
(6) Sixth judicial district. Daviess.
(7) Seventh judicial district. Logan and Todd.
(8) Eighth judicial district. Warren.
(9) Ninth judicial district. Hardin.
(10) Tenth judicial district. Hart *and*[~~,~~] Larue [~~and Nelson~~].
(11) Eleventh judicial district. Green, Marion, Taylor and Washington.
(12) Twelfth judicial district. Henry, Oldham and Trimble.
(13) Thirteenth judicial district. Garrard, Jessamine and Lincoln.
(14) Fourteenth judicial district. Bourbon, Scott and Woodford.
(15) Fifteenth judicial district. Carroll, Grant and Owen.
(16) Sixteenth judicial district. Kenton.
(17) Seventeenth judicial district. Campbell.
(18) Eighteenth judicial district. Harrison, Nicholas, Pendleton and Robertson.
(19) Nineteenth judicial district. Bracken, Fleming and Mason.
(20) Twentieth judicial district. Greenup and Lewis.
(21) Twenty-first judicial district. Bath, Menifee, Montgomery and Rowan.
(22) Twenty-second judicial district. Fayette.
(23) Twenty-third judicial district. Estill, Lee and Owsley.
(24) Twenty-fourth judicial district. Lawrence, Johnson and Martin.
(25) Twenty-fifth judicial district. Clark and Madison.
(26) Twenty-sixth judicial district. Harlan.

(27) Twenty-seventh judicial district. Knox and Laurel.
(28) Twenty-eighth judicial district. Pulaski and Rockcastle.
(29) Twenty-ninth judicial district. Adair, Casey, Cumberland and Monroe.
(30) Thirtieth judicial district. Jefferson.
(31) Thirty-first judicial district. Floyd.
(32) Thirty-second judicial district. Boyd.
(33) Thirty-third judicial district. Perry.
(34) Thirty-fourth judicial district. Whitley and McCreary.
(35) Thirty-fifth judicial district. Pike.
(36) Thirty-sixth judicial district. Magoffin and Knott.
(37) Thirty-seventh judicial district. Carter, Elliott and Morgan.
(38) Thirty-eighth judicial district. Butler, Edmonson, Ohio and Hancock.
(39) Thirty-ninth judicial district. Breathitt, Wolfe and Powell.
(40) Fortieth judicial district. Clinton, Russell and Wayne.
(41) Forty-first judicial district. Clay, Jackson and Leslie.
(42) Forty-second judicial district. Calloway and Marshall.
(43) Forty-third judicial district. Barren and Metcalfe.
(44) Forty-fourth judicial district. Bell.
(45) Forty-fifth judicial district. Muhlenberg and McLean.
(46) Forty-sixth judicial district. Breckinridge, Grayson, and Meade.
(47) Forty-seventh judicial district. Letcher.
(48) Forty-eighth judicial district. Franklin.
(49) Forty-ninth judicial district. Allen and Simpson.
(50) Fiftieth judicial district. Boyle and Mercer.
(51) Fifty-first judicial district. Henderson.
(52) Fifty-second judicial district. Graves.
(53) Fifty-third judicial district. Shelby, Anderson and Spencer.
(54) Fifty-fourth judicial district. Boone and Gallatin.
(55) Fifty-fifth judicial district. Bullitt.
(56) Fifty-sixth judicial district. Caldwell, Livingston, Lyon and Trigg.
(57) Fifty-seventh judicial district. Nelson.

Section 2. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) district judges and shall have two (2) numbered divisions of the district court:

(1) First judicial district.
(2) Second judicial district.
(3) Third judicial district.
(4) Fourth judicial district.
(5) Eighth judicial district.
(6) Ninth judicial district.
(7) [~~Tenth judicial district.~~
~~(8)~~] Eleventh judicial district.
(8)[~~(9)~~] Twelfth judicial district.
(9)[~~(10)~~] Thirteenth judicial district.
(10)[~~(11)~~] Fourteenth judicial district.
(11)[~~(12)~~] Fifteenth judicial district.
(12)[~~(13)~~] Eighteenth judicial district.
(13)[~~(14)~~] Twenty-first judicial district.
(14)[~~(15)~~] Twenty-fourth judicial district.
(15)[~~(16)~~] Twenty-seventh judicial district.
(16)[~~(17)~~] Twenty-eighth judicial district.
(17)[~~(18)~~] Twenty-ninth judicial district.
(18)[~~(19)~~] Thirty-second judicial district.
(19)[~~(20)~~] Thirty-fourth judicial district.
(20)[~~(21)~~] Thirty-fifth judicial district.
(21)[~~(22)~~] Thirty-eighth judicial district.
(22)[~~(23)~~] Fortieth judicial district.
(23)[~~(24)~~] Forty-first judicial district.
(24)[~~(25)~~] Forty-sixth judicial district.
(25)[~~(26)~~] Forty-eighth judicial district.
(26)[~~(27)~~] Fiftieth judicial district.
(27)[~~(28)~~] Fifty-first judicial district.

(28)[~~(29)~~] Fifty-third judicial district.
(29)[~~(30)~~] Fifty-fourth judicial district.
(30)[~~(31)~~] Fifty-sixth judicial district.

Section 3. This Act shall become effective the first Monday in January, 1986.

HB 780, AN ACT relating to appointment of guardians and conservators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.590 is amended to read as follows:

(1) If the respondent is found partially disabled in managing his personal affairs, but not partially disabled or disabled in managing his financial resources, a limited guardian shall be appointed.

(2) If the respondent is found partially disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a limited conservator shall be appointed.

(3) If the respondent is found partially disabled in managing both his personal affairs and financial resources, a limited guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a limited conservator.

(4) If the respondent is found disabled in managing his financial resources, but not partially disabled or disabled in managing his personal affairs, a conservator shall be appointed.

(5) If the respondent is found disabled in managing both his personal affairs and financial resources, a guardian shall be appointed, unless the court considers it in the best interest of the ward to appoint both a limited guardian and a conservator.

(6) The order of appointment of a limited guardian, guardian, limited conservator, or conservator shall specify:

(a) The type of guardianship or conservatorship to which the ward is subject;

(b) The name and address of the limited guardian, guardian, limited conservator, or conservator;

(c) The name and address of the standby guardian or conservator, if a standby guardian or conservator is designated;

(d) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;

(e) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled; and

(f) The duration of the term of guardianship or conservatorship.

(7) A limited guardian or limited conservator shall not be appointed for a term greater than five (5) years and may be appointed for a lesser period. A guardian or conservator may be appointed for a period of unlimited duration.

(8) The judgment of partial disability or disability and the order of appointment shall be filed in the district court. The judgment shall be indexed *by the county clerk* in the book in which notices of actions and encumbrances are indexed. Unless such judgment is filed and indexed, it shall not constitute notice to any subsequent bona fide purchaser for value, mortgagee, or encumbrancer.

(9) If the respondent is determined to be disabled or partially disabled but no limited guardian, guardian, limited conservator, or conservator is appointed at the hearing, the determination shall have no legal effect.

(10) The rights of which a ward is legally deprived upon a determination of disability in managing his personal affairs and financial resources include, but are not limited to, the right to vote, dispose of property, execute instruments, enter into contractual relationships, determine his living arrangements, consent to medical procedures, and obtain a motor vehicle operator's license.

(11) A partially disabled or disabled person for whom a limited guardian, limited conservator, or conservator has been appointed retains all legal and civil rights except those which have by court order been designated as legal disabilities or which have been specifically granted to the limited guardian, limited conservator, or conservator. A person who is partially disabled may be subject to some but not all of the disabilities specified in subsection (10) of this section.

SB 133, AN ACT relating to parent and child.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 405.021 is amended to read as follows:

(1) The circuit court may grant reasonable visitation rights to either the paternal or maternal grandparents of a child [~~whose parent is deceased~~] and issue any necessary orders to enforce the decree if it determines that it is in the best interest of the child to do so.

(2) The action shall be brought in circuit court in the county in which the child resides.

Motions, Petitions, and Communications (continued)

A special meeting of the Committee on Counties and Special Districts was announced for Friday, 8:30 a.m.

Representative F. Smith moved that he be recorded as voting "yea" on the passage of **HB 41,** as amended by the Senate. Agreed.

Representative O'Brien moved that **HCR 89** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Todd moved the adoption of the following Legislative Citation No. 88. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Allen C. Muse, for your unlimited hours of service rendered by untiring efforts to serve your constituents during your six years as Magistrate of the 4th District for Pulaski County. Your devotion to serving the people of your county and the 4th District is most evident from the many improvements that have been accomplished during your terms in office. The development of a county fire department system is especially noteworthy. The construction of many miles of rural water lines that serves most of the district, as well as the construction and improvements to many sections of county roads is most admirable. Providing new social programs such as adult education and payment of energy costs for the elderly is exemplary of your unexcelled record. You have shared generously of your knowledge, time, resources and experiences for which we are sincerely grateful.

This honorable body salutes you for your dedication and contributions to the welfare of others and applauds you for the great distinction that you have brought to your community and the Commonwealth of Kentucky. (Sponsored by Representative Todd)

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **HB 76,** by Representative Pearman:

Amend printed copy of **HB 76** on page 2, line 24, after "*cation*" by inserting the following: "*and be certified*"; and

On page 4, line 1, after the word "school" insert a "."; and

On page 4, delete lines 2 and 3 in their entirety and insert in lieu thereof:

"*It shall be the duty of each private, parocial or church regular day school to notify the local board of education of those students in the school. If a school declines, for any reason, to notify the local board of education of those students in attendance, it shall so notify each student's parent or legal guardian in writing, and it shall then be the duty of the parent or legal guardian to give proper notice to the local board of education.*"

Floor Amendment No. 1 to **HB 304,** by Representative Clarke:

Amend printed copy of Committee Substitute to **HB 304,** page 1, by deleting lines 20 and 21 and on page 2, by deleting lines 1 through 12 in their entirety.

Floor Amendment No. 1 to **HB 495,** by Representative Donnermeyer:

Amend printed copy of Committee Substitute to **HB 495** on page 4, line 5 after "*person*" by inserting "*unless supervised by a certificate holder*"; and

On page 7, line 9, by deleting "*(2)*"; and

On page 7, line 9, by deleting "*(2)*"; and

On page 7, line 15, after "*supervised the*" by inserting an opening bracket "[" and on line 16 after "*technical*" by inserting a closing bracket "]"; and

On page 7, line 18, after "*of*" by inserting "*twenty-five (25)*" and by inserting an opening bracket "[" before "*three*" and a closing bracket "]" after "*(300)*"; and

On page 7, line 19, after "*size*" by inserting "*in accordance with the Kentucky building code,*"; and

On page 7, line 21, after "*of*" by inserting "*twenty-five (25)*" and by placing an opening bracket "[" before "*three*" and a closing bracket "]" after "*(300)*"; and

On page 8, line 2, after "*partner,*" by inserting an opening bracket "[" and by inserting a closing bracket "]" after "*officer,*".

Floor Amendment No. 1 to **HB 510,** by Representative Cowan:

Amend printed copy of **HB 510** on page 1, line 10, by placing brackets around the word "*equal*"; and

On line 10, by removing the brackets and the strike throughs on the word "just".

Delete line 11 in its entirety and delete "*inequitable when* " on line 12;

On page 3 between line 3 and 4 insert a new subsection as follows:

"*(4) The court in a decree which awards property or cash to one spouse may provide, notwithstanding the provisions of KRS 360.040, for reasonable interest on any such award which rate may be modified by the court from time to time for good cause shown upon motion and notice to all parties.*"

On page 3 beginning on line 21 after the word "*sought*" delete the remainder of the line and delete the entire line 22 except for the period "." after the word "*spouses*".

On page 3, line 26, delete the word "*In*"; and

On page 4, delete all of line 1 and that part of line 2 that states "*court shall consider*" and insert in lieu thereof "*The court shall consider in making such award*".

Floor Amendment No. 6 to **HB 553,** by Representative Morris:

Amend printed copy of **HB 553** on page 1, line 3, by inserting "*may*" before "shall", and by enclosing "shall" in brackets and by striking through "shall";

And on page 1, line 4, by inserting after "date" the following:

"*, and shall terminate employment by the first day of the month following his sixtieth birthday*".

Floor Amendment No. 1 to **HB 565,** by Representative Yates:

Amend printed copy of **HB 565** on page 1, line 6, after the word "*with*" by deleting the words "*thirty (30)*" and inserting the words "*twenty-five (25)*" in lieu thereof; and

On Page 2, line 4, after the word "*or*" by deleting the word "*thirty*" and inserting "*twenty-five*" in lieu thereof; and

On page 2, line 5, before the word "years" by deleting "*(30)*" and inserting "*(25)*" in lieu thereof.

Floor Amendment No. 1 to **HB 590,** by Representative Donnermeyer:

Amend printed copy of **HB 590** on page 4, by inserting after line 10 the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS

FOLLOWS:

For the purpose of this chapter, in those instances where ownership of tangible personal property cannot be ascertained from public records maintained as required by law, the person, firm or corporation delivering the tangible personal property for repair or storage shall be deemed the owner thereof, unless the person supplying repair or storage has actual knowledge to the contrary."

Floor Amendment No. 3 to **HB 595**, by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 595** on page 1, line 20, by adding the following:

On page 1, line 20, by adding the following:

"*Nothing in this Act shall be construed to allow public funds to pay for in-vitro fertilization procedures performed on any individual patient.*"

Floor Amendment No. 4 to **HB 595**, by Representative Heleringer:

Amend printed copy of Committee Substitute to **HB 595**, page 1, line 5, by deleting "*funds*" and substituting in lieu thereof "*medical facilities*";

And on line 5, after the word "*the*" by inserting "*purpose of conducting research into or the*";

And on line 20, by adding: "*Nothing in this Act shall be construed to allow public funds to pay for in-vitro fertilization procedures performed on any individual patient.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any person who intentionally or recklessly violates KRS 311.715 shall be guilty of a Class A misdemeanor."

Floor Amendment No. 3 to **HB 619**, by Representative List:

Amend printed copy of **HB 619** on page 2, line 14, after "*utility or*" by adding "*sewer utility, as defined in KRS 278.010(3)(d) or KRS 278.010(3)(f)*" and by striking "*combined water, gas or sewer utility organized*"; and

On line 15, by striking "*under KRS Chapter 74 or 273*"; and

On page 2, after line 19, by adding the following:

(5) Provided, however, that all funds authorized to be received by the utility pursuant to subsection (4) shall be set aside and maintained in a separate account as designated by the Commission for the sole purpose of replacement of utility plant and equipment. No disbursement or other withdrawal shall be made from this account by the utility for any other purpose. The account balance shall be shown separately on all reports required by KRS 278.140 as well as all financial statements otherwise required to be filed by the Commission. Failure to properly maintain said account in accordance with the provisions herein shall subject the utility, its officers, agents or employees to the penalty provisions of KRS 278.990.

Floor Amendment No. 1 to **HB 671**, by Representative R. Jones:

Amend printed copy of **HB 671** on page 1, line 17, after the word "*revenue*" by adding "*except as to the internal organization of the department.*"

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Thursday, March 8, 1984.

On the roll call the vote was yeas 65-Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Brown, Burch, Burnette, Caldwell, L. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dunn, Ellington, Farrow, Foster, Fryman, Gedling, Gray, Hancock, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lile, List, Little, Long, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, White, Yates. Nays 8-Donnermeyer, Handy, Heleringer, Maggard, McBee, Moore, Perkins, Williams.

The motion to adjourn was adopted.

THURSDAY, MARCH 8, 1984

FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend Roger C. Newell, Hodgenville United Methodist Church, Hodgenville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 7, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 197, SB 288, SB 308, HB 293** with Senate Committee Substitute and Title Amendment, and **HB 370.**

Reference of Bills and Resolutions

The Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 283.**

Appropriations and Revenue: **SB 247, SB 294.**

Education: **SB 169, SB 202.**

Transportation: **SB 86.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HR 10, HB 968, SB 9, HB 939, HJR 93, SB 67, SB 257, SB 191, SB 238.**

Health and Welfare: **SB 199.**

Agriculture and Small Business: **SB 327.**

Report of Committees

The Committee on Rules reported **HB 16, HB 671, HB 800, HB 539, SB 56, SB 209, SB 239, HB 620, HB 76,** and **HB 510** have been posted for passage in Orders of the Day, March 9, 1984.

The Committee on Banking and Insurance reported **HB 366** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Banking and Insurance reported **HB 587** with Committee Amendment attached thereto, **HB 603, HB 655, HB 761, HB 809, HB 826, HB 838** with Committee Substitute attached thereto, **HB 860** with Committee Amendment attached thereto, **HB 885, HB 937** with Committee Amendment attached thereto, **SB 148,** and **SB 176** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 587, AN ACT relating to banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsection (2) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest thereon, buying and selling exchange, coin and bullion and lending money on personal or real security.

(2) Any corporation presently or hereafter engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner of banking and securities for permission to establish, within the city in which either the principal office or an existing branch office which has been annexed into the city is located and, subject to the limitation hereinafter imposed, within the county in which its principal office is located a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner of banking and securities shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and prompted thereby and that there is reasonable probability of the successful operation of such branch. No such branch shall be authorized or approved by the commissioner unless all of the following are complied with:

(a) No such corporation having a combined capital and surplus of less than $100,000 shall be permitted to establish any branch. Any corporation applying for permission to establish a branch shall be required to have a minimum combined capital and surplus for each branch applied for in accordance with the following table:

If the principal office is located in:
1. An unincorporated area or in a city of 7,999 population or less $100,000
2. City with population of 8,000 to 19,999 .... $200,000
3. City with population of 19,999 and over one branch may be authorized for every $250,000 of capital and surplus.

Said population is to be determined by the last census or any future census of the United States.

(b) [~~No such corporation shall be permitted to establish a branch in any incorporated city, other than in the city in which either the principal office or an existing branch office which has been annexed into the city is located, in which there is an existing bank. Nor shall any such corporation be permitted to establish a branch in any unincorporated area within a radius of one (1) mile of an existing bank located in such unincorporated area. As used in this subsection, an "existing bank" shall mean the principal office of a bank as distinguished from a branch thereof.~~

~~(c)~~] The permission to open a branch shall lapse one year after the commissioner has rendered a final order, as defined in KRS 287.062, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for whatever period of time he deems to be necessary.

(3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank, may continue to retain and operate the same under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any such existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of such banks, nor to prohibit the sale of any bank to, and the purchase thereof by, any other bank in the same county and the operation of such bank by the purchasing bank as a branch, provided the commissioner of banking and securities shall determine that the public convenience and necessity will be served by such operation, and provided further that, at the time of such merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more.

(5) Any national banking association or any state bank member of the federal reserve system whose principal office is located in this state is hereby authorized to do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of such powers.

(6) When a branch or agency bank has once been established any operation thereof shall not be discontinued, and said branch or agency bank shall not be closed until after ninety (90) days notice in writing to the commissioner. In the discretion of the commissioner said branch or agency bank proposing to

discontinue operation may be required to give notice of the date when such operation will cease.

The Committee Amendment No. 1 to **HB 587** is as follows:

Amend printed copy of **HB 587**, page 2, line 26, through page 3, line 11, by removing the brackets and strikethrough; and

On page 3, line 4, after "bank" by inserting "*, unless proof of need is submitted to the commissioner and the commissioner approves the establishment of such a branch*"; and

On page 3, line 6, after the word "a" by inserting the word "*distance*" and placing brackets and strikethrough around the word "radius"; and

On page 3, line 8, after the word "area" by inserting "*, unless proof of need is submitted to the commissioner and the commissioner approves the establishment of such a branch.*"

HB 603, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. Said premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the department of revenue, on such forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any such monies returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. The funds derived from such premium surcharge, except as provided in subsection (2) of this section, shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the state treasury, and shall be paid monthly by the state treasurer into the volunteer fire department aid fund as provided in KRS 17.250.

(3) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the state treasury as set forth in subsection (1) of this section, shall be paid by the state treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190.

(4) Subsection (1) of this section shall not apply to insurance coverage provided to policyholders against loss of or damage to livestock from any cause.

HB 655, AN ACT relating to banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of law, any bank doing business in the Commonwealth, whether state or nationally chartered, may purchase for its own account shares of a bank or bank holding company which owns or controls such a bank provided:

(a) The stock of such bank or bank holding company is owned exclusively (except to the extent

director's qualifying shares are required by law) by depository institutions; and

(b) Such bank or bank holding company and all subsidiaries thereof are engaged exclusively in providing services for depository institutions, their parent companies, their subsidiaries, the officers, directors, and employes of each.

(2) In no event shall the total amount of stock held by a bank in any bank or bank holding company described in subsection (1) above exceed at any time ten percent (10%) of a bank's capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in a bank acquiring more than five percent (5%) of any class of voting securities of such bank or bank holding company.

(3) The commissioner is authorized to receive applications, hold hearings on such applications, and issue charters for a banker's bank.

HB 761, AN ACT relating to first party insurance claims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The desire to provide a fair and equitable means of resolving disputes that arise between insurers and insureds requires that the statutory mechanism herein be adopted to effect the following purposes:

(a) To encourage insurers to conduct reasonable investigations of claims by its insureds;

(b) To promote prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(c) To deter insurers from unreasonably delaying or denying benefits due their insureds under contracts of insurance;

(d) To provide the insured the undiminished benefit of his insurance policy or contract when he is compelled to bring a cause of action against his insurer to enforce the terms of a valid insurance policy or contract;

(e) To provide a reasonable remedy for common law causes of action by first party claimants; and

(f) To allow insurers to assert valid defenses and to defend claims for which there is a reasonable basis for denial without exposure to liability grossly disproportionate to the claims and amounts involved.

(2) Under no circumstances is it the intent nor shall this section be construed to provide the basis for an independent duty, the breach of which would give rise to an independent tort.

(3) As used in this section, the following definitions shall apply:

(a) "First party claimant" means an individual, corporation, association, partnership or other legal entity asserting a right to payment under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such policy or contract. A first party claimant includes, but is not limited to, the intended beneficiary of an uninsured motorist insurance policy;

(b) "Insurance policy or contract" means a policy or contract entered into by an insurer as defined in this section or a substitute therefor entered into by a self-insured entity or employer;

(c) "Issuer" means an entity providing an insurance policy or contract; and

(d) "Bad faith" means that condition which occurs when an issuer fails to pay the claim, or any portion thereof, asserted by a first party claimant when the issuer has no reasonable basis for such failure to pay. The issuer's refusal to pay a claim when there is a reasonable basis for denial does not constitute bad faith for purposes of this section.

(4) Upon being adjudged liable to the first party claimant, the issuer shall pay a penalty not to exceed twenty percent (20%) of the total recovery if the court or jury finds that such issuer's refusal to pay the first party claimant according to the terms of the insurance policy or contract was in bad faith. In no case shall such penalty be less than five hundred dollars ($500).

(5) In addition to the penalty set out in subsection (4) of this section, the first party claimant who recovers under that subsection by way of settlement or judgment shall be entitled to recover a reasonable attorney's fee. Such fee shall be determined by considering the extent of relief obtained by the first party claimant, the amount of time expended by the attorney, the existence and timing of any good faith offer of settlement by the issurer and such other factors as the court deems appropriate, but in no case shall such attorney's fee exceed the fee actually incurred by the first party claimant.

(6) The penalty imposed under this section shall be the exclusive remedy of the first party claimant if the issuer fails in bad faith to pay a first party claimant. The failure in bad faith to pay shall not give rise to an independent action in tort.

HB 809, AN ACT relating to securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

292.560 Definitions.

292.570 Notice -- Hearing -- Stock ownership limitation -- Information to be filed prior to making take-over bid.

292.580 Hearing.

292.590 Restrictions on take-over bids.

292.600 Copy of filing to be furnished to appropriate regulatory body.

292.610 Applicability of liabilities, penalties, and remedies.

292.620 Rules and regulations.

292.630 Exclusions.

HB 826, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.12-085 is amended to read as follows:

No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, *blindness or degree of blindness*, or sex except that rates determined through valid actuarial tables shall not be violative of KRS Ch. 344.

HB 838, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section the following terms shall have the following respective meanings:

(a) "Check" means any check, draft, or similar order for the withdrawal or payment of money, but such term does not include any counter check or similar draft or order, nor does it include any check, draft or order provided upon the opening of any account for use by the customer until printed checks for such account have been prepared;

(b) "Federal or state financial institution" means any financial institution and any bank, savings and loan association, or credit union organized under the laws of the United States and operated in this state;

(c) "Personal checking account" means any demand or similar deposit account that is opened or established in the name of one (1) or more natural persons with a federal or state financial institution subsequent to July 14, 1984 and from which signatories on the account can withdraw or order the payment of funds by using a check.

(2) When a federal or state financial institution directly or indirectly first provides checks to a customer for use in connection with a particular personal checking account, the checks shall be numbered consecutively, on their faces, beginning with number 101.

(3) All checks provided directly or indirectly by a federal or state financial institution for use in connection with a particular personal checking account shall have the month and year in which the account was opened legibly printed and identified as such on the faces of the checks.

Section 2. KRS 365.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 365.015 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days, or both, and each day that the violation continues shall constitute a separate offense.

(2) Any person who violates any of the provisions of KRS 365.020 to 365.050 shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not more than six (6) months, or both. Any person who, as agent of any person or as director, officer or agent of any corporation assists or aids in a violation of any of such provisions by the person or corporation for which he is director, officer or agent, shall be responsible therefor equally with such person or corporation, and in a prosecution brought by the local commonwealth attorney against him under this

subsection it shall be sufficient to allege and prove the unlawful intent of the person or corporation for whom he acts.

(3) Any person who violates any of the provisions of KRS 365.100 shall be fined not less than two hundred dollars ($200) for each offense.

(4) Any person who violates any of the provisions of KRS 365.110 shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) for each offense.

(5) Any agent or employe of a corporation or any other person who violates any of the provisions of subsection (2) of KRS 365.220 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and each day's continuance of the violation shall constitute a separate offense.

(6) A conviction of a corporation of violating any of the provisions of KRS 365.210 or 365.220 shall operate to forfeit its charter or right to do business in this state. Proceedings may be instituted by the Commonwealth's attorney in any district in this state to forfeit the charter or right to do business in this state of any corporation violating any of the provisions of KRS 365.210 or 365.220, and to subject the corporation charged, if found guilty, to the penalty imposed in subsection (7) of this section.

(7) Any company that violates any of the provisions of KRS 365.230 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), and if it is a corporation it shall, upon conviction, forfeit its charter.

(8) Failure to maintain the register or to make the report to the sheriff as required by KRS 365.250 shall be a misdemeanor punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and shall be prima facie evidence that such dealer, collector or vendor received the used copper wire or cable not registered or reported, knowing it to be stolen in violation of KRS 514.110.

(9) Any person who violates Section 1 of this Act is guilty of a class B misdemeanor.

The Committee Substitute to **HB 838** is as follows:

HB 838, AN ACT relating to financial institutions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section the following terms shall have the following respective meanings:

(a) "Check" means any check, draft, or similar order for the withdrawal or payment of money, but such term does not include any counter check or similar draft or order, nor does it include any check, draft or order provided upon the opening of any account for use by the customer until printed checks for such account have been prepared;

(b) "Federal or state financial institution" means any financial institution and any bank, savings and loan association, or credit union organized under the laws of the United States and operated in this state;

(c) "Personal checking account" means any demand or similar deposit account that is opened or established in the name of one (1) or more natural persons with a federal or state financial institution subsequent to the effective date of this Act and from which signatories on the account can withdraw or order the payment of funds by using a check.

(2) All checks provided directly or indirectly by a federal or state financial institution for use in connection with a particular personal checking account shall have the numerical month and year in which the account was opened legibly printed on the faces of the checks.

HB 860, AN ACT relating to the financing of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.090 is amended to read as follows:

As used in KRS 190.090 to 190.140 unless the context or subject matter otherwise requires:

(1) "Person" means an individual, partnership, corporation, association, and any other group however organized.

(2) "Retail instalment sale" means any sale for other than business or commercial use evidenced by a retail instalment contract wherein retail buyer agrees to buy and retail seller agrees to sell a motor vehicle at a

time sale price payable in two or more instalments. The cash sale price of the motor vehicle, the amount, if any, included for insurance and other benefits, official fees and the finance charge, shall together constitute the time sale price.

(3) "Retail instalment contract" means any agreement, entered into in this state, evidencing a retail instalment sale of a motor vehicle, other than for the purpose of resale, pursuant to which title to, or a lien upon the motor vehicle is retained by the retail seller as security for the retail buyer's obligation. This term includes a mortgage, conditional sale contract or any contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to the time sale price of the motor vehicle and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such motor vehicle.

(4) "Motor vehicle" means any device [~~with a cash sale price of five thousand dollars ($5,000) or less,~~] in, upon, or by which any person or property is, or may be transported or drawn upon a highway. The term does not include self-propelled wheelchairs and invalid tricycles, tractors, power shovels, road machinery, implements of husbandry and other agricultural machinery, or other machinery not designed primarily for highway transportation but which may incidentally transport persons or property on a highway, or devices which move upon or are guided by a track or travel through the air. A moped as defined in KRS 190.010 shall be subject to the same requirements as a motor vehicle under this section.

(5) "Retail seller" or "seller" means a person who sells or agrees to sell a motor vehicle under a retail instalment contract to a retail buyer.

(6) "Retail buyer" or "buyer" means a person who buys or agrees to buy a motor vehicle from a retail seller not for the purpose of resale and who executes a retail instalment contract in connection therewith.

(7) "Sales finance company" means a person engaged in the business of creating and holding or purchasing or acquiring retail instalment contracts from a retail seller. The term includes a bank, trust company, private banker, industrial bank, investment company or national bank, if so engaged.

(8) "Cash sale price" means the price at which the seller would in good faith sell to the buyer, and the buyer would in good faith buy from the seller, the motor vehicle which is the subject matter of the retail instalment contract, if such sale were a sale for cash, instead of a retail instalment sale. The cash sale price may include any taxes, registration fees, certificate of title fees, if any, license fees, charges for delivery, servicing, repairing, or improving the motor vehicle, including accessories and their installation.

(9) "Official fees" means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail instalment contract.

(10) "Finance charge" means that part of the time sale price by which it exceeds the aggregate of the cash sale price, the amount, if any, included for insurance and other benefits and official fees included in the retail instalment sale.

(11) Words in the singular include the plural and vice versa.

Section 2. KRS 190.100 is amended to read as follows:

(1) (a) Every retail instalment contract shall be in writing in at least eight (8) point type, shall contain all the agreements of the parties, shall be signed by the retail buyer, and a copy thereof shall be furnished to such retail buyer at the time of the execution of the contract.

(b) No provision of a retail instalment contract which purports to provide for the inclusion of title to or a lien upon any goods other than the motor vehicle, accessories and special or auxiliary equipment used in connection therewith which either are the subject of the retail instalment sale or are substitution in whole or in part therefor, as security for payment of such time sale price shall be valid or enforceable; but the other provisions of the retail instalment contract shall not be affected thereby.

(c) No provisions for confession of judgment, power of attorney therefor, or wage assignment contained in any retail instalment contract shall be valid or enforceable.

(d) *If the finance charge applicable to a retail installment contract has been determined by a pre-computed method,* the holder of a retail instalment contract may collect a delinquency and collection charge on each instalment in arrears for a period not less than ten (10) days in an amount not in excess of five percent (5%) of each instalment or five dollars ($5.00), whichever is the less. In addition to such delinquency and collection charge, the retail instalment contract may provide for the payment of attorneys' fees not exceeding fifteen percent (15%) of the amount due and payable under such contract where such contract is referred to an attorney not a salaried employe of the holder of the contract for collection, plus the court costs.

(e) Unless notice has been given to the retail buyer of actual or intended assignment of a retail instalment contract, payment thereunder or tender thereof made by the retail buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees.

(f) Upon written request from the retail buyer, the holder of the retail instalment contract shall give or forward to the retail buyer a written statement of the [~~dates and amounts of payments and the~~] total amount unpaid under such contract. A retail buyer shall be given a written receipt for any payment when made in cash.

(2) The retail instalment contract shall contain the following [~~items~~]:

(a) The cash sale price of the motor vehicle which is the subject matter of the retail instalment sale;

(b) The amount of the retail buyer's down payment, whether made in money or goods, or partly in money or partly in goods;

(c) The difference between *paragraphs* [~~items~~] (a) and (b) *of this subsection*;

(d) 1. Amount, if any, included for insurance and other benefits;

2. Types of coverage and benefits;

(e) Official fees as defined in KRS 190.090;

(f) Principal balance, which is the sum of *paragraphs* [~~item~~] (c), [~~item~~] (d), and [~~item~~] (e) *of this subsection.*[~~;~~

~~(g) The amount of the finance charge;~~

~~(h) The time balance payable by the retail buyer to the retail seller, the number of instalment payments required and the amount of each instalment expressed in dollars or percentages, and date of each payment necessary finally to pay the time balance which is the sum of item (f) and item (g); Provided, however, That said items (a) to (h) inclusive need not be stated in the sequence or order set forth above and that additional items may be included which serve to explain the calculations involved in determining the stated time balance to be paid by the retail buyer.~~]

(3) The retail instalment contract shall contain a definite statement in twelve (12) point bold type or larger, that the insurance, if any included in the retail instalment sale provides or does not provide coverage for personal liability and property damage caused to others, as the case may be.

(4) The amount, if any, included for insurance, shall not exceed the premiums chargeable in accordance with applicable rate filings made with the commissioner of insurance. Every retail seller or sales finance company, if insurance on the motor vehicle is included in a retail instalment contract shall within thirty (30) days after execution of the retail instalment contract send or cause to be sent to the retail buyer a policy or policies or certificate of insurance, which insurance shall be written by a company authorized to do business in this state, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of the insurance. The buyer of a motor vehicle under a retail instalment contract shall have the privilege of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the seller; Provided, however, That the inclusion of the insurance premium in the retail instalment contract when the buyer selects the agent, broker or company, shall be optional with the seller. If any such policy is canceled, the unearned insurance premium refund received by the holder of the contract shall be credited to the final maturing instalments of the retail instalment contract.

(5) Any sales finance company hereunder may purchase or acquire from any retail seller any retail instalment contract on such terms and conditions as may be agreed upon between them. No filing of the assignment, no notice to the retail buyer of the assignment, and no requirement that the retail seller shall be deprived of dominion over the payments thereunder or the goods covered thereby if repossessed by the retail seller shall be necessary to the validity of a written assignment of a retail instalment contract as against creditors, subsequent purchasers, pledgees, mortgagees and lien claimants of the retail seller.

(6) An acknowledgment in the body of the retail instalment contract by the retail buyer of the delivery of a copy thereof shall be conclusive proof of delivery in any action or proceeding by or against any assignee of a retail instalment contract.

Section 3. KRS 190.110 is amended to read as follows:

(1) The finance charge in a retail instalment sale shall not exceed the following rates:

Class 1. Any new or used motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made -- eleven dollars ($11.00) per one hundred dollars ($100).

Class 2. Any new motor vehicle not in class 1 and any used motor vehicle designated by the manufacturer by a year model of one (1) or two (2) years prior to the year in which the sale is made -- thirteen dollars ($13.00) per one hundred dollars ($100).

Class 3. All other motor vehicles not in class 1 or 2 -- fifteen dollars ($15.00) per one hundred dollars ($100).

(2) Such finance charge shall be computed on the principal balance as determined under KRS 190.100 (2) on contracts payable in successive monthly payments substantially equal in amount extending for a period of one (1) year. On contracts providing for instalment payments extending for a period less than or greater than one (1) year, the finance charge shall be computed proportionately.

(3) When a retail instalment contract provides for unequal or irregular instalment payments, the finance charge shall be at the effective rate provided in subsection (1) *of this section* [~~hereof~~], having due regard for the schedule of payment.

(4) The finance charge allowed by this section may be paid in advance and may be pre-computed by using an add-on or discount method. Alternatively, the seller may, at his option, compute the finance charge on a simple interest basis, at a fixed or variable rate, but in such case the amount of finance charge that the seller may collect shall not exceed the amount that could be collected if the finance charge were pre-computed.

Section 4. KRS 190.120 is amended to read as follows:

(1) If the finance charge applicable to the retail installment contract has been determined by a pre-computed method, the retail buyer may pay in full at any time before the stated maturity date and upon such prepayment in full the retail buyer shall receive a refund of a portion of the finance charge computed in accordance with the Rule of 78's. An acquisition cost of twenty-five dollars ($25) shall be deducted from the finance charge before computation of the refund. Where the refund is less than one dollar ($1.00) no refund need be made and acceleration of the balance by the seller, caused by the default of the buyer or otherwise, shall not affect the date of computation. Any balance remaining unpaid as of the stated maturity date shall then be subject to accumulation of additional finance charge at the rate specified in the contract.

(2) If the finance charge applicable to the retail installment contract has or will be determined by a simple interest method, the retail buyer may pay in full at any time before the stated maturity date without penalty, except that the holder may collect and receive a minimum finance charge of twenty-five dollars ($25) in any event [~~Notwithstanding the provisions of any retail instalment contract to the contrary, any retail buyer may pay in full at any time before maturity the debt of any retail instalment contract and in so paying such debt shall receive a refund credit thereon for such anticipation of payments. The amount of such refund shall represent at least as great a proportion of the finance charge after first deducting from such finance charge an acquisition cost of twenty-five dollars ($25.00), as the sum of the periodic time balances after the month in which payment is made, bears to the sum of all the periodic time balances under the schedule of payments in the original contract. Where the amount of the credit for anticipation of payment is less than one dollar ($1.00), no refund need be made~~].

Section 5. KRS 190.130 is amended to read as follows:

The holder of a retail instalment contract may, upon agreement with the retail buyer, extend the scheduled due date, defer the scheduled payment of all or part of any instalment payment or payments, or renew the balance of such contract. In any such case the holder may restate the amount of the instalments and the time schedule therefor, and collect as a refinance charge for such extension, deferment or renewal, a flat service fee not to exceed five dollars ($5.00) and *an* [~~a total~~] additional *finance charge computed at the same rate and by the same method as originally set out in the retail installment contract* [~~charge not exceeding an amount equal to one per cent (1%) per month simple interest on the respective descending balances~~] computed from the date of such extension, deferment or renewal.

The Committee Amendment No. 1 to **HB 860** is as follows:

Amend printed copy of **HB 860** page 10, line 3, by deleting "*be paid in advance and may*"

Page 10, line 4, by deleting "*or discount*"

HB 885, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-320 is amended to read as follows:

(1) No automobile liability or motor vehicle liability policy of insurance insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in KRS 304.39-110 under provisions approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of underinsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided that the named insured shall have the right to reject in writing such coverage; and provided further that, unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) For purposes of this coverage the term "underinsured motorist coverage" shall, subject to the terms and conditions of such coverage, be coverage whereby the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the policy limits thereon, to the extent of the policy limits on the vehicle of the party recovering less the amount paid by the liability insurer of the party recovered against. His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of

the money it pays.

(3) In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer [~~Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the policy limits thereon, to the extent of the policy limits on the vehicle of the party recovering less the amount paid by the liability insurer of the party recovered against. His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays~~].

HB 937, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.010 is amended to read as follows:

[~~(1)~~] As used in this chapter, unless the context requires otherwise:

(1)[~~(a)~~] "Bank" *means any bank which is now or may hereafter be organized under the laws of this state or a combined bank and trust company* [~~includes every corporation authorized by this chapter to do a banking business~~];

(2)[~~(b) "State bank" means a bank or trust company organized pursuant to KRS Chapter 287;~~

~~(c)~~] "National bank" or "national bank association" means a bank created by congress and organized pursuant to the provisions of federal law;

(3)[~~(d)~~] "Commissioner" means the commissioner of *financial institutions* [~~banking and securities~~];

(4)[~~(e)~~] "Department" means the department of *financial institutions* [~~banking and securities~~];

(5)[~~(f)~~] "Population" means the population as indicated by the latest regular United States census; and

(6)[~~(g)~~] "Trust company" includes every corporation authorized by this chapter to do a trust business;

(7)[~~(h)~~] "Undivided profits" means the composite of the bank's net retained earnings from current and prior years' operations;

(8)[~~(i)~~] "Capital stock" shall mean, at any particular time, the sum of:

(a)[~~1.~~] The par value of all shares of the corporation having a par value that have been issued;

(b)[~~2.~~] The amount of the consideration received by the corporation for all shares of the corporation that have been issued without par value except such part of the consideration as has been allocated to surplus in a manner permitted by law; and

(c)[~~3.~~] Such amounts not included in paragraphs *(a)* [~~1.~~] and *(b)* [~~2.~~] of this subsection as have been transferred to stated capital of the corporation, whether through the issuance of stock dividends, resolution of the bank's board of directors under applicable corporate law or otherwise by law; and

(9)[~~(j)~~] "Surplus" means the amount of consideration received by the corporation for all shares issued without par value that has not been allocated to capital stock or the amount of consideration received by the corporation in excess of par value for all shares with a par value or both.

[~~(2) Whenever a corporation engages in the business of real estate title insurance and also a banking or trust business under the provisions of this chapter, the banking or trust business shall be regulated by this chapter and the real estate title insurance business shall be regulated by the laws relating to real estate title insurance companies.~~]

Section 2. KRS 287.011 is amended to read as follows:

(1) There is created a department of *financial institutions* [~~banking and securities~~], which constitutes a department of the state government within the meaning of KRS Chapter 12. The department shall be headed by a commissioner [~~of banking and securities~~], who shall be the executive head of the department and shall be charged with the administration of the department.

(2) The department [~~of banking and securities~~] shall exercise all administrative functions of the state in relation to the regulation, supervision, chartering and licensing of banks, trust companies, savings and loan associations, *consumer* [~~petty~~] loan companies, investment and industrial loan companies, and credit unions, and in relation to the regulation of securities. For administrative purposes the department may be divided into sections for each class of financial institution under jurisdiction of the department, and there shall be within the department, for regulation, *a division of banking, a division of securities, and a division of thrift*

institutions. Each division shall be headed by a director, appointed by the commissioner with the prior approval of the governor [~~of securities, a division of securities, headed by a director who has had at least four (4) years' successful business experience and a division of banking to be headed by a director~~].

Section 3. KRS 287.012 is amended to read as follows:

The governor shall appoint as commissioner [~~of banking and securities~~] a person *with at least three (3) years of financial experience at the senior managerial level in the public or private sector* [~~knowledgeable in banking with not less than five (5) years' banking experience. For this purpose, "banking experience" means service as an executive in a bank located in Kentucky in a grade not lower than cashier, or service as a deputy commissioner or examiner in the department of banking and securities or in the former division of banking of Kentucky, or as director of former division of banking, or as former commissioner of banking~~].

Section 4. KRS 287.020 is amended to read as follows:

(1) The commissioner may prescribe, amend and repeal such rules, regulations, forms and orders as are necessary to interpret and carry out the provisions and intent of this chapter. He shall devise a seal for his department, a description of which, together with an impression thereof and a certificate of approval by the governor, shall be filed in the office of the secretary of state. The seal shall be renewed whenever necessary.

(2) The commissioner [~~of banking and securities~~] and his deputies shall be allowed their necessary traveling and other expenses of conducting their office.

(3) The commissioner [~~of banking and securities~~] may prescribe, amend and *repeal* [~~appeal~~] regulations authorizing banks [~~or trust companies~~] to engage in any banking activity in which such banks could engage were they operating as national banks at the time such authority is granted, provided that this subsection shall not apply to activities which are expressly prohibited or limited by the statutes of the Commonwealth.

(4) Nothing herein contained shall be construed to repeal, modify or alter the restrictions of KRS 287.105 relative to the leasing of motor vehicles, or of KRS 287.180 relative to the establishment of branches.

Section 5. KRS 287.025 is amended to read as follows:

The commissioner [~~of banking and securities~~] may appoint a deputy commissioner with the prior written approval of the governor. The deputy commissioner shall, during the absence or inability of the commissioner or under his instructions, or in the event of a vacancy in the office of the commissioner and until the vacancy is filled, be vested with all the powers and perform all the duties of the commissioner.

Section 6. KRS 287.040 is amended to read as follows:

(1) Any five (5) or more persons may organize a banking corporation.

(2) Any seven (7) or more persons may organize a corporation for the purpose of conducting a trust business.

(3) Any seven (7) or more persons may organize a corporation for the purpose of conducting a combined banking and trust business.

[~~(4) Any thirteen (13) or more persons may organize a corporation for the purpose of conducting a combined banking and real estate title insurance business, combined trust and real estate title insurance business, or combined banking, trust and real estate title insurance business.~~]

Section 7. KRS 287.050 is amended to read as follows:

(1) Before filing the articles of incorporation of any financial institution mentioned in KRS 287.040, the incorporators shall present a copy of their proposed articles to the commissioner [~~of banking and securities~~] who shall investigate the financial standing, moral character and capability of each of the incorporators, and determine whether there is reasonable assurance of sufficient volume of business for the proposed corporation to be successful, and whether the public convenience and advantage will be promoted by the opening of the proposed corporation.

(2) In the event that the institution for which a charter is sought is to be created solely for the purpose of effectuating a merger or consolidation to facilitate the formation of a bank holding company, the commissioner may waive all or any part of the requirements of subsection (1) of this section.

(3) If the commissioner [~~of banking and securities~~] determines that it is expedient and desirable to permit the proposed corporation to engage in business, he shall approve the articles of incorporation in writing, and the articles then may be filed and recorded as provided in the general corporation law.

Section 8. KRS 287.060 is amended to read as follows:

(1) Before any financial institution mentioned in KRS 287.040 may transact any banking or trust business, it shall file a written oath with the commissioner. The oath shall be taken by each director of the institution, and shall state in substance:

(a) That such director is a citizen of the United States, and the state of Kentucky, or, if not, the place of his residence;

(b) That he will faithfully discharge the duties of his office and administer the affairs of the institution, so far as the duties of his office require;

(c) That he will uphold the laws of the state, and particularly the banking *and trust* laws.

(2) The oath shall be taken before any officer authorized to administer oaths, and shall be taken upon the election of any subsequent director or reelection of any director. The oath shall be transmitted to the

commissioner immediately upon its execution and shall be filed and preserved by the commissioner.

(3) The commissioner shall issue to the institution a certificate entitling it to transact the business for which it was organized after the following requirements have been met:

(a) The oath mentioned in subsections (1) and (2) of this section has been filed; and

(b) The commissioner has received satisfactory proof that the accounts of the *bank* institution's depositors will be insured by the federal deposit insurance corporation; and

(c) The commissioner has received satisfactory proof that the institution has subscribed and paid-in the required capital and has otherwise fully complied with all pertinent laws and regulations; and

(d) A period of thirty (30) days has elapsed since the rendition by the commissioner of a final order, as defined in KRS 287.062, and an appeal to the appropriate court has not been taken from such order.

(e) If an appeal from a final order of the commissioner has been timely filed, no certificate shall be issued until all the requirements of *paragraphs* (a) to (c) of this subsection have been met and until:

1. The appeal has been finally disposed of by the last possible court of review, including the United States Supreme Court; or

2. All further opportunities for appeal have expired as a result of the failure to timely file an appeal.

Section 9. KRS 287.090 is amended to read as follows:

No reduction in the capital stock of a bank *or trust company* shall be made to *an* [~~a less~~] amount *less* than is required for organization, nor shall any reduction be valid until it has been approved by the commissioner [~~of banking and securities~~] upon his finding that the interest of creditors of the bank *or trust company* will not be prejudiced thereby.

Section 10. KRS 287.095 is amended to read as follows:

(1) *At least sixty (60) days prior to* [~~Whenever~~] a change *occurring* [~~occurs~~] in the outstanding voting stock of any bank *or trust company* which will result in control or in a change in the control of the bank *or trust company, the proposed acquiring party or parties*[~~, the president or other chief executive officer of such bank~~] shall [~~promptly~~] report such facts to the commissioner *for approval unless the commissioner finds that:*

(a) The terms of the acquisition are not in accordance with the laws of this state; or

(b) The financial condition, or the competence, experience and integrity of the acquiring party or parties are such as will jeopardize the financial stability of the bank; or

(c) The public convenience and advantage will not be served by the acquisition [~~upon obtaining knowledge of such change~~].

(2) As used in [~~this~~] subsection *(1) of this section*, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the bank *or trust company*. A change in ownership of voting stock which would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of less than ten percent (10%) of the outstanding voting stock shall not be considered a change of control. If there is any doubt as to whether a change in the outstanding voting stock is sufficient to result in control thereof or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the commissioner.

(3)[~~(2)~~] Whenever a bank makes a loan or loans, secured, or to be secured, by twenty-five percent (25%) or more of the outstanding voting stock of a bank, the president or other chief executive officer of the lending bank shall promptly report such fact to the commissioner upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one (1) year or more, or the stock is that of a newly organized bank prior to its opening.

(4)[~~(3)~~] The reports required by subsections (1), [~~and~~] (2) *and (3)* of this section shall contain the following information to the extent that it is known by the person making the report:

(a) The number of shares involved;

(b) The names of the sellers (or transferors);

(c) The names of the purchasers (or transferees);

(d) The names of the beneficial owners if the shares are registered in another name;

(e) The purchase price;

(f) The total number of shares owned by the seller (or transferors), the purchasers (or transferees) and the beneficial owners both immediately before and after the transaction; and in the case of a loan*:*[~~;~~]

1.[~~(1)~~] The name of the borrower;

2.[~~(2)~~] The amount of the loan; and

3.[~~(3)~~] The name of the bank issuing the stock securing the loan and the number of shares securing the loan.

In addition to the foregoing, such reports shall contain such other information as may be available to inform the commissioner of the effect of the transaction upon control of the bank *or trust company* whose stock is involved.

(5)[~~(4)~~] Whenever such a change as described in subsection (1) of this section occurs, each bank *or trust company* shall report promptly to the commissioner any changes or replacement of its chief executive

officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

Section 11. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) Such real estate is necessary or appropriate for the transaction of legitimate business, and

(b) The cost of such real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). The commissioner may permit the investment of a larger amount;

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor;

(4) Invest in the bonds of any Federal Home Loan Bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, 12 U.S.C. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business.

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) *Stocks,* bonds, or other interest bearing *or dividend-yielding* obligations issued or guaranteed as to the payment of principal and interest *or dividend* by any instrumentality presently or hereafter incorporated by authority of an Act of Congress*;*

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness.

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. 1861) and any amendments thereto.

Section 12. KRS 287.103 is amended to read as follows:

(1) It is hereby declared to be the policy of the Commonwealth of Kentucky that the investment of funds, by a bank chartered under the laws of Kentucky or a national banking association having its principal office in Kentucky, in real and personal property as now or hereafter provided by this chapter be recognized as a normal, proper, necessary, and integral part of the legitimate business of such state or national banks.

(2) Upon approval of the commissioner [~~of banking~~] in the case of a state bank, or the proper federal supervisory authority in the case of a national bank, the institution may invest its funds in real or personal property and/or improvements on such real property when all or a portion of the improvements are for use as its home office or for branch offices so long as the said real estate is used for carrying on its legitimate business as permitted by section 192 of the Constitution of the state of Kentucky.

(3) All property owned and held by a state or national bank under this section shall be deemed to be property that is proper and necessary for carrying out its legitimate business within the meaning of KRS 271A.705 or any other section of the Kentucky Revised Statutes relating to escheat.

Section 13. KRS 287.105 is amended to read as follows:

Subject to such limitations and conditions as the commissioner [~~of banking and securities~~] may from time to time prescribe by general regulations, any bank or [~~combined bank and~~] trust company organized under the laws of this state may purchase, hold and become the owner and lessor of personal property acquired upon the specific request of and for the use of a customer and may incur such additional obligations as may be incident to becoming an owner and lessor of such personal property, provided, however, that for the purposes of this section the term "personal property" shall not include a motor vehicle required to be registered under KRS Chapter 186, and provided further, that the net unrecovered investment of such bank or [~~combined bank and~~] trust company in such personal property shall, for the purposes of KRS 287.280 only, be deemed to be an indebtedness of the lessee thereof, and such personal property shall be considered to be collateral securing such indebtedness.

Section 14. KRS 287.110 is amended to read as follows:

The capital stock of a *bank or* trust company, and the funds in its possession, not held in a fiduciary capacity, may be invested in such manner as the directors deem prudent and safe. Funds held in a fiduciary capacity shall be invested under the order of the court, or in such manner as may be provided by law for the investment of other trust funds, and the capital stock shall be primarily liable for the obligations of the corporation in its fiduciary capacity.

Section 15. KRS 287.115 is amended to read as follows:

(1) With the approval of the commissioner a bank or trust company may, at any time, by resolution of its board of directors, which resolution shall have been approved at a stockholders' meeting by two-thirds (2/3) of the outstanding capital stock of the bank, issue and sell its capital notes or debentures in an amount not in excess of one hundred percent (100%) of its unimpaired paid-in capital stock plus fifty percent (50%) of its unimpaired surplus. The aggregate amount of such capital notes or debentures issued or sold by a bank or trust company shall be exempt from the limitations and restrictions on indebtedness, as may be provided in its articles of incorporation.

(2) Such capital notes and debentures shall be subordinate to the claims of creditors and depositors, and shall be provided in any such capital notes or debentures that in the event of liquidation all depositors and other creditors of the bank shall be entitled to be paid in full, with such interest as may be provided by law, before any payment shall be made on account of principal of or interest on said capital notes or debentures, and may provide that after payment in full of all sums owing to such depositors and creditors the holders of such capital notes shall be entitled to be paid from the remaining assets of the bank, the unpaid principal amount of the capital notes or debentures, plus accrued and unpaid interest thereon, before any payment or other distribution, whether in cash, property or otherwise, shall be made on account of any capital stock of the bank.

(3) The capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be liable for any debts, contracts, or engagements of such bank, nor for assessments to restore impairments in the capital of such bank, unless the holder is a stockholder in such bank.

(4) Such capital notes or debentures issued or sold by a bank or trust company shall be considered as a portion of the capital and unimpaired surplus or capital structure of the issuing bank *or trust company* and shall be considered as such in determining the bank's legal lending or investment limits, and for other purposes, when based upon the capital and unimpaired surplus of the bank *or trust company*; except that such capital notes and debentures shall not be considered in determining the amount of ad valorem taxes payable by the bank or trust company.

(5) No such capital notes or debentures may be retired or paid by the bank or trust company if at the time of retirement or payment or immediately after, there be an existing deficiency of the bank's *or trust company's* capital stock, as determined by the commissioner.

(6) No such capital notes or debentures shall be issued or sold by a bank or trust company except for cash, and no bank or trust company which issues such capital notes or debentures shall acquire or hold any of its capital notes or debentures in its own assets or in fiduciary capacity. Any of its own notes or debentures acquired by a bank contrary to the provisions of this section shall be forthwith disposed of by sale or charged to its undivided profits account.

(7) Wherever the terms "capital," "capital stock," or "capital structure" are used in this section, they shall be construed to have reference only to capital actually paid in and capital stock actually issued.

Section 16. KRS 287.140 is amended to read as follows:

(1) A bank[~~, trust company, combined bank and trust company, or real estate title insurance company~~] may, with the consent of a majority in number and interest of its stockholders, amend its articles of incorporation or reorganize to permit it to engage in *a trust business* [~~any two (2) or more kinds of businesses mentioned in this section~~]. The stock of the old corporation, if unimpaired, may be converted into stock in the new corporation.

(2) Any *bank or trust company* [~~two (2) or more corporations named in subsection (1)~~] may consolidate and the consolidated corporation shall issue stock for an equivalent amount in value of the stock of the constituent corporations.

Section 17. KRS 287.180 is amended to read as follows:

(1) Banks authorized under the laws of this state may, except as provided in subsection (2) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest thereon, buying and selling exchange, coin and bullion and lending money on personal or real security.

(2) Any corporation presently or hereafter engaged in the business of banking, and meeting the requirements of this subsection, may apply to the commissioner [~~of banking and securities~~] for permission to establish, within the city in which either the principal office or an existing branch office which has been annexed into the city is located and, subject to the limitation hereinafter imposed, within the county in which its principal office is located a branch at which all of the powers conferred in subsection (1) of this section may be exercised. Before the commissioner [~~of banking and securities~~] shall approve or disapprove any application made under this subsection he shall ascertain and determine that the public convenience and advantage will be served and prompted thereby and that there is reasonable probability of the successful operation of such

branch. No such branch shall be authorized or approved by the commissioner unless all of the following are complied with:

(a) No such corporation having a combined capital and surplus of less than $100,000 shall be permitted to establish any branch. Any corporation applying for permission to establish a branch shall be required to have a minimum combined capital and surplus for each branch applied for in accordance with the following table:

If the principal office is located in:

1. An unincorporated area or in a city of 7,999 population or less $100,000
2. City with population of 8,000 to 19,999 .... $200,000
3. City with population of 19,999 and over one branch may be authorized for every $250,000 of capital and surplus.

Said population is to be determined by the last census or any future census of the United States.

(b) No such corporation shall be permitted to establish a branch in any incorporated city, other than in the city in which either the principal office or an existing branch office which has been annexed into the city is located, in which there is an existing bank. Nor shall any such corporation be permitted to establish a branch in any unincorporated area within a radius of one (1) mile of an existing bank located in such unincorporated area. As used in this subsection, an "existing bank" shall mean the principal office of a bank as distinguished from a branch thereof.

(c) The permission to open a branch shall lapse one year after the commissioner has rendered a final order, as defined in KRS 287.062, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for whatever period of time he deems to be necessary.

(3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank, may continue to retain and operate the same under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any such existing agency or branch bank but only as to those agencies or branch banks which may be established in the future pursuant to the terms of this section.

(4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of such banks, nor to prohibit the sale of any bank to, and the purchase thereof by, any other bank in the same county and the operation of such bank by the purchasing bank as a branch, provided the commissioner [~~of banking and securities~~] shall determine that the public convenience and necessity will be served by such operation, and provided further that, at the time of such merger or purchase, each of the banks involved shall have been in operation for a period of five (5) years or more.

(5) Any national banking association or any state bank member of the federal reserve system whose principal office is located in this state is hereby authorized to do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of such powers.

(6) When a branch or agency bank has once been established any operation thereof shall not be discontinued, and said branch or agency bank shall not be closed until after ninety (90) days notice in writing to the commissioner. In the discretion of the commissioner said branch or agency bank proposing to discontinue operation may be required to give notice of the date when such operation will cease.

Section 18. KRS 287.190 is amended to read as follows:

Any bank [~~or trust company~~] may accept for payment at a future date drafts or bills of exchange drawn upon it by its customers, issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents at sight or on time, and accept or discount acceptances.

Section 19. KRS 287.195 is amended to read as follows:

Any bank [~~or trust company or combined bank and trust company~~] may apply to the commissioner [~~of banking and securities~~] for permission to remain closed on any day of the week fixed by the adoption of a resolution of the board of directors of such institution. If the commissioner [~~of banking and securities~~] deems that the public interest will be adequately served thereby, he shall grant to such applying institution permission to remain closed on such fixed day provided fifteen (15) days' notice of such closing be given the public by posting a statement to such effect in some conspicuous place in said institution. Any day upon which such bank [~~or trust company or combined bank and trust company~~] shall, pursuant to such permission and notice, remain closed, shall in respect of such institution be deemed a holiday for all purposes, and no bank [~~or trust company or combined bank and trust company~~] shall be required to permit access to its safe deposit vaults on such day. When a contract by its terms requires the payment of money or the performance of a condition on any such day by or at such institution, such payment may be made or condition performed on the next business day succeeding such day when such institution shall so remain closed, with the same force and effect as if made in accordance with the terms of the contract, and no liability or loss of rights shall result from such delay.

Section 20. KRS 287.199 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Commissioner" means the commissioner of *financial institutions* [~~banking~~] and any other person lawfully exercising the powers of the commissioner.

(b) "Officers" means the person or persons designated by the board of directors of a bank to act for the bank in carrying out the provisions of this section.

(c) "Emergency" means any condition which interferes with the conduct of normal business operations at one or more or all offices of a bank or banks, or which poses an imminent or existing threat to the safety and security of persons or property, or both. Without limiting the generality of the foregoing an emergency may arise as a result of any one or more of the following: fire, flood, wind, rain or snowstorms, labor disputes, power failures, transportation failures, war and riots, civil commotions, and other acts of lawlessness or violence.

(d) "Office" means any place at which a bank transacts business or conducts operations related to the transaction of business.

(e) "Person" includes natural persons, corporations, partnerships and associations.

(2) Whenever the commissioner is of the opinion that an emergency exists in this state or in any part or parts of this state, he shall, by proclamation, authorize those banks which, in the opinion of their officers, are directly or indirectly affected by such emergency to close one or more or all their offices.

(3) Whenever the officers of a bank are of the opinion that an emergency exists which affects one or more or all the bank's offices, they shall have authority to close one or more or all such offices even though the commissioner has not issued a proclamation of emergency, and they may provide that the business normally transacted at a closed office will be transacted at another office designated by the bank until further notice. The office or offices so closed shall remain closed until the commissioner proclaims that the emergency has ended, or until such earlier time as the officers of the bank determine that one or more offices, theretofore closed because of the emergency, should reopen, or, if the commissioner has issued no proclamation of emergency, until the officers of the bank determine that such office or offices should reopen. The discretion of the officers in acting pursuant to this section, when exercised in good faith, shall not be questioned in any court or place.

(4) A bank closing an office or offices pursuant to this section shall give prompt notice to the commissioner as conditions will permit.

(5) No bank and no director, officer or employe of a bank shall be liable to any person for any direct or indirect loss suffered by reason of the bank's failure or inability to make access to the bank's premises and facilities available to such person or by reason of the bank's failure or delay in performing any contractual, statutory or other duty assumed by or imposed upon the bank in any capacity when such failure, inability or delay is caused by an emergency as defined by this section. The immunity from liability provided for herein shall endure during the period of such emergency and for such time thereafter as may reasonably be necessary to afford such access or perform such duty.

(6) The provisions of this section shall be construed and applied as being in addition to any other law of this state or United States excusing delays by banks in the performance of duties or obligations, or authorizing the closing of banks because of emergencies or conditions beyond the bank's control, or otherwise.

(7) The commissioner may make such orders and regulations, not inconsistent with this section, as he shall deem necessary during an emergency to provide for the uninterrupted continuance of business by banks to the extent consistent with the safety and security of persons and property.

Section 21. KRS 287.210 is amended to read as follows:

Any *bank or* trust company organized under the laws of this state may:

(1) Be appointed and act as guardian of infants, executors, administrator or curator of estates of decedents, guardian or conservator of persons adjudged mentally disabled, receiver or trustee for persons or estates;

(2) Act as agent for the transaction of any business or the management of estates, the collection of rents, accounts, interest, dividends, notes, bonds, securities for money and debts, and demands of every character;

(3) Receive on deposit and for safekeeping, gold, silver, jewelry, money and other personal property of every kind, and shall have a lien upon all personal property deposited with it for its charge.

Section 22. KRS 287.212 is amended to read as follows:

(1) Notwithstanding any other provision of law, any bank [~~or trust company~~], when acting as a fiduciary or when holding securities as custodian for a fiduciary, is authorized to deposit, or arrange for the deposit, with the federal reserve bank in its district of any securities, the principal and interest of which the United States or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, to be credited to one or more accounts on the books of said federal reserve bank in the name of such bank [~~or trust company~~], to be designated fiduciary for safekeeping accounts, to which account other similar securities may be credited. A bank [~~or trust company~~] so depositing securities with a federal reserve bank shall be subject to such rules and regulations with respect to the making and maintenance of such deposit as, in the

case of a bank [~~or trust company~~] organized under the laws of this state, the commissioner [~~of banking and securities~~], and, in the case of the national banking associations, the comptroller of the currency, may from time to time issue. The records of such bank [~~or trust company~~] shall at all times show the ownership of the securities held in such account. Ownership of, and other interests in, the securities credited to such account may be transferred by entries on the books of said federal reserve bank without physical delivery of any securities. A bank [~~or trust company~~] acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank [~~or trust company~~] with such federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by any party, to its accounting or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary with such federal reserve bank for its account as such fiduciary.

(2) This section shall apply to any fiduciary, and any custodian for fiduciaries, acting on June 21, 1974, or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed.

(3) As used in this section, "fiduciary" includes an executor, administrator, trustee under any trust, express, implied, resulting or constructive, guardian, conservator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate.

Section 23. KRS 287.214 is amended to read as follows:

Notwithstanding the provisions of any other law, a bank *or*[~~,~~] trust company [~~or combined bank and trust company~~] may take, receive, reserve and charge on money due or to become due on any contract or other obligation in writing, where the original principal amount is fifteen thousand dollars ($15,000) or less, interest at any rate allowed national banking associations by the laws of the United States of America. *A trust company shall not make any extensions of credit on its own account, but may make extensions of credit for trust assets under management.*

Section 24. KRS 287.300 is amended to read as follows:

(1) Each bank [~~and trust company~~] organized under the laws of this state and authorized to receive deposits shall keep on hand at all times *legal reserves as mandated by the board of governors of the federal reserve system.* [~~at least 7 percent of its total demand deposits and 3 percent of its total time and savings deposits; and in cities which are reserve or central reserve cities under the Federal Reserve Act (38 stat. 251), as amended, at least 10 percent in reserve cities and 13 percent in central reserve cities of its total demand deposits and 3 percent of its total time and savings deposits. All reserves required by this subsection shall consist of lawful money of the United States in the office and vaults of the bank, cash and due from banks, checks in process of collection, drawn on a bank, private bank, or any other banking institution, which are payable immediately upon presentation in the United States, including checks with a federal reserve bank in process of collection and checks on hand which will be presented for payment or forwarded for collection on the following business day, government checks and warrants drawn on the treasurer of the United States which are in process of collection, and such other items in process of collection, payable immediately upon presentation in the United States, as are customarily cleared or collected by banks as cash items; provided, that:~~

~~(a) The reserve against savings and time deposits may be invested in bonds of the United States or of the Commonwealth, at the market value thereof, and in certificates of deposit issued by any state or national bank or trust company chartered or domiciled in this state; and~~

~~(b) A maximum of 25 percent of the reserve against demand deposits may be invested in~~

~~1. Obligations of the United States, or any bureau or agency thereof, which are fully guaranteed as to principal and interest by the United States and which mature within one (1) year after the date such obligations are first considered as a part of the legal reserve of the bank, or~~

~~2. Certificates of deposit issued by any state or national bank or trust company chartered or domiciled in this state, or~~

~~3. Any combination of 1. and 2.~~

~~Any bank which is a member of the federal reserve system may, in lieu of the reserve herein required, keep and maintain such reserve as is required under the acts of congress relating to federal reserve banks.~~

~~(2) The commissioner of banking and securities, in his discretion, may require any bank or trust company organized under the laws of this state to keep on hand not exceeding twice the amount of deposits required to be kept on hand by subsection (1) of this section.~~

~~(3) Any bank or trust company, incorporated under the laws of this state, which becomes a member of a federal reserve bank, shall be subject to all the provisions of the federal reserve act and its amendments, and the regulations of the federal reserve board applicable to such bank or trust company, and shall have all powers and assume all the liabilities conferred and imposed by the act in regard to state member banks. Such bank or trust company shall comply with the reserve requirements of the federal reserve act and its amendments, and such compliance shall relieve the bank or trust company from compliance with the laws of this state relating to the maintenance of reserves.~~

~~(4) As used in this section:~~

~~(a) "Demand deposits" include all deposits payable within thirty (30) days; and~~

~~(b) "Time deposits" include all deposits payable after thirty (30) days and all savings accounts and certificates of deposit which are subject to not less than thirty (30) days' notice before payment.~~

~~(5) The reserve or reserves required by this section shall be computed as of the opening of business on every other Thursday (unless Thursday is a legal holiday, in which event said computation shall be made as of the opening of business on the next succeeding business day) or such other day as the commissioner of banking and securities may from time to time establish for such calculation. Such calculation shall be computed on the basis of the average daily demand or savings and time deposits of such bank or trust company covering the biweekly period immediately preceding the day fixed herein for such computation.~~

~~(6) The commissioner may accept the reserves required of state banks pursuant to Title I of the Monetary Control Act of 1980 in lieu of reserves required under subsection (1) of this section.~~]

Section 25. KRS 287.310 is amended to read as follows:

(1) Any bank [~~or trust company~~] organized under the laws of this state may subscribe for and own stock of the federal reserve bank within the federal reserve district where it is located and may take any steps necessary to become a member of that federal reserve bank.

(2) Any bank [~~or trust company or combined bank and trust company~~] organized under the laws of this state may, upon the authority of a majority of its board of directors, acquire stock or securities of the federal deposit insurance corporation and may enter into and take advantage of all contracts, rights and privileges which may at any time be available to them or their depositors, receivers or liquidators, pursuant to any federal act, and may do anything necessary to acquire or maintain insurance of its deposits in the federal deposit insurance corporation, or any federal corporation that succeeds or is substituted therefor.

Section 26. KRS 287.325 is amended to read as follows:

Any bank [~~or trust company~~] that is not fully insured by the Federal deposit insurance corporation shall, in any advertisement soliciting deposits, carry the following statement: "The deposits in this institution are not federally insured."

Section 27. KRS 287.330 is amended to read as follows:

(1) Banks [~~and trust companies~~], subject to statutory or charter limitations, may pledge such portion of their assets as may be required by law as collateral security for government deposits made with them, or any of them, by or under the authority of the United States, or for any other deposit required by law to be secured.

(2) Notwithstanding any law requiring security for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of section 12B of the federal reserve act (38 Stat. 251) as amended.

(3) If a bank proposes to sell its assets and transfer its deposit liability to another bank and the purchasing bank is unwilling to accept a sufficient amount of the assets to cover the liability to depositors and other creditors, the selling bank may, with the consent of the commissioner [~~of banking and securities~~], pledge all or a part of its remaining or unacceptable assets to secure a loan for an amount sufficient to cover the remaining liability to the depositors and other creditors.

Section 28. KRS 287.375 is amended to read as follows:

(1) Every [~~state~~] bank shall retain its business records for such periods as are or may be prescribed by or in accordance with the terms of this section.

(2) Each [~~state~~] bank shall retain permanently the minute book of meetings of its stockholders and directors, its capital stock ledger and capital stock certificate ledger or stubs, its general ledger, its daily statements of condition, its general journal, its investment ledger, its copies of bank examination reports, and all records which the commissioner [~~of banking and securities~~] shall, in accordance with the terms of this section, require to be retained permanently.

(3) All other bank records shall be retained for such periods as the commissioner [~~of banking and securities~~] shall, in accordance with the terms of this section, prescribe.

(4) The commissioner [~~of banking and securities~~] shall from time to time issue regulations classifying all records kept by [~~state~~] banks and prescribing the period for which records of each class shall be retained. Such periods may be permanent or for a lesser term of years. Such regulations may from time to time be amended or repealed. Prior to issuing any such regulation the commissioner [~~of banking and securities~~] shall consider:

(a) Actions at law and administration proceedings in which the production of bank records might be necessary or desirable;

(b) State and federal statutes of limitation applicable to such actions or proceedings;

(c) The availability of information contained in bank records from other sources;

(d) Such other matters as the commissioner shall deem pertinent in order that its regulations will require banks to retain their records for as short a period as is commensurate with the interests of bank customers and shareholders and of the people of this state in having bank records available.

(5) Any [~~state~~] bank may dispose of any record which has been retained for the period prescribed by or in accordance with the terms of this section for retention of records of its class, and shall thereafter be

under no duty to produce such record in any action or proceeding.

(6) Any [~~state~~] bank, including the department of *financial institutions* [~~banking and securities~~], may cause any or all records at any time in its custody to be reproduced by the microphotographic process and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(7) To the extent that they are not in contravention of any law of the United States, the provisions of this section shall apply to all banks doing business in this state.

Section 29. KRS 287.440 is amended to read as follows:

(1) The commissioner [~~of banking and securities~~] shall appoint a sufficient number of examiners and assistant examiners to examine all institutions coming under the supervision of the department [~~of banking and securities~~]. A salary schedule for examiners and assistant examiners shall be prepared by the commissioner and presented to the secretary of the finance and administration cabinet for [~~his~~] approval. In the event an advisory state banking board is established by law, the appointment and compensation of examiners and assistant examiners shall be with the advice of such board.

(2) The commissioner [~~of banking and securities~~], the deputy commissioner and each examiner shall take the constitutional oath of office.

(3) Neither the commissioner [~~of banking and securities~~], nor the deputy commissioner, nor any examiner or assistant examiner shall be indebted directly or indirectly either as borrower, indorser, surety or guarantor, to any bank or trust company under his supervision or subject to his examination, nor shall he be a director, officer or employe in such bank or trust company, nor engage or become interested in the sale of securities as a business or in the negotiation of loans for others.

(4) No person shall be assigned to examine the affairs of any bank or trust company in a county in which he holds stock in either a state or national bank or trust company.

Section 30. KRS 287.450 is amended to read as follows:

(1) Every bank or trust company doing business under the laws of this state shall be subject to inspection by the commissioner [~~of banking and securities~~] or by an examiner appointed by the commissioner. Examination shall be made of every bank and trust company at least once every twenty-four (24) months and not more than twice unless it appears from examination or from the reports of the bank or trust company that it has failed to comply with laws or regulations relating to banks or trust companies.

(2) The commissioner, [~~of banking and securities~~] deputy commissioner and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the bank or trust company being examined.

(3) Any bank [~~or trust company~~] that becomes a member of a federal reserve bank shall be subject to the examination required by the federal reserve act, (38 Stat. 251) as amended, and the commissioner [~~of banking and securities~~] may, in his discretion, accept examinations made by the federal reserve authorities in lieu of examinations made under state laws. The commissioner [~~of banking and securities~~] shall furnish to the federal reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank [~~or trust company~~].

Section 31. KRS 287.455 is amended to read as follows:

In undertaking the examination of any bank or trust company, neither the Commonwealth of Kentucky, the commissioner [~~of the department of banking and securities~~], nor any examiner employed by the Commonwealth shall become liable to any depositor, investor, or other obligor of said bank or trust company by reason of said examination or omission of said examination to fully and effectively disclose the financial condition of said bank or trust company, it being the policy of the Commonwealth of Kentucky that such examinations as are required by KRS 287.450 and 287.460, are for the purpose of determining compliance with state law and not for the purpose of protecting or guaranteeing the depositors, investors or other obligors of said bank or trust company.

Section 32. KRS 287.460 is amended to read as follows:

In examinations under KRS 287.450 the examining officer shall investigate:

(1) The cash, bills, collateral, securities, other assets, books of account, and all other papers and books of the bank or trust company;

(2) The condition and resources of the bank, the mode of conducting and managing its affairs, the actions of its directors, the investment and disposition of its funds, the safety and prudence of its management and the security afforded to those by whom its engagements are held;

(3) Whether the requirements of its charter and of the laws of this state have been complied with in the administration of its affairs; and

(4) Such other matters as the commissioner [~~of banking and securities~~] deems necessary.

Section 33. KRS 287.480 is amended to read as follows:

The following fees shall be paid to the commissioner [~~of banking and securities~~] by corporations engaged in a banking or trust business:

(1) For the investigation incident to the approval of articles of incorporation and to the approval of applications for branch banks, the fee shall be sufficient to cover the cost of the investigation based upon fair

compensation for time and actual expense;

(2) For each report, a filing fee of twenty-five dollars ($25.00);

(3) For each bank subject to inspection and examination by the commissioner, an annual assessment based on the assets of such banks, other than assets held by it in a fiduciary capacity, as reported to the department by the banks as of the thirty-first day of December of the previous year. The assessment schedule shall be at such rates as the commissioner shall determine to be necessary to carry out the duties of the department and shall be reasonably related to the costs (other than costs of examination) incurred by the department in regulating banks. The assessments for any one (1) year shall not exceed a sum equal to five cents (5) per each one thousand dollars ($1,000) and any fraction thereof of the total non-trust assets;

(4) For any examinations under KRS 287.450, a fee shall be collected sufficient to cover the cost of the examination based upon fair compensation for time and actual expense;

(5) For the examination of the assets held by the institution in a fiduciary capacity, the fee shall be sufficient to cover the cost of the investigation based upon fair compensation for time and actual expense. The commissioner may accept examinations made of the trust department in combined banks and trust companies by examiners for the federal reserve system, federal deposit insurance corporation, or a certified public accountant; and

(6) Extraordinary services performed, in addition to examinations, for any financial institution, including institutions in liquidation under the supervision of the commissioner, shall be paid for by such institution upon the basis of fair compensation for time and actual expense.

Section 34. KRS 287.485 is amended to read as follows:

All fees collected and paid into the state treasury under the provisions of KRS Chapters 287, 288, 289, 290, 291, 292, 294, [~~307,~~] 366, *or any industry regulated by the department* [~~and 316.010 to 316.070~~] shall be credited to a revolving trust or agency fund account, as provided in KRS 45.140, for the department [~~of banking and securities~~] and shall be separately accounted for and shall be used solely for the administration and enforcement of said KRS Chapters.

Section 35. KRS 287.490 is amended to read as follows:

(1) Every institution under the supervision of the department shall make a written report to the commissioner [~~of banking and securities~~] whenever required by him to do so. The commissioner shall not require more than five (5) reports from any one (1) institution in any one (1) year, unless he deems it necessary in order to obtain complete information, and each report shall be verified by the oath of the corporation's president or vice-president, and its secretary or cashier, or two (2) principal officers.

(2) The reports shall show the actual condition of the bank making the report at the close of business on a date designated by the commissioner [~~of banking and securities~~] and shall specify:

(a) The amount of its capital stock and the number of shares into which it is divided;

(b) The names of the directors, and the number of shares of stock held by them;

(c) The total amount of capital actually paid in, and the total amount of surplus and other reserve funds;

(d) The total amount due depositors, and all other liabilities;

(e) The total amount and character of overdrafts secured, overdrafts not secured and all other assets;

(f) The amount at which the lot and building occupied by the bank for the transaction of its business stands debited on its books, and the market value of all other real estate held, and how acquired, the amount at which it stands debited on the books, and where situated;

(g) The amount loaned on real estate;

(h) The indebtedness or liability of each officer, and of each director to the bank;

(i) The amount invested in bonds and stocks;

(j) The amount loaned on stocks and bonds, on other securities, commercial paper and other notes and bills;

(k) The actual amount of money on hand and on deposit in other banks, and the name of such banks where deposited;

(l) Any other property held, or money loaned, deposited, invested or placed, not otherwise mentioned in this section, and the place where situated and the value of the property, and the amount loaned, deposited, or placed; and

(m) Any other information required by the commissioner [~~of banking and securities~~].

Section 36. KRS 287.500 is amended to read as follows:

Every official report concerning a bank or trust company made by the commissioner [~~of banking and securities~~] and every verified report of an examination, shall be prima facie evidence of the facts therein stated for all purposes in any action in which the bank or trust company is a party. Such reports shall not be made public except when required in proper legal proceedings.

Section 37. KRS 287.660 is amended to read as follows:

Each June the commissioner [~~of banking and securities,~~] shall make a report to the governor; setting forth:

(1) A summary of the condition of every bank or trust company organized and doing business under the laws of this state, subject to examination and inspection under this chapter, and such other information relating to such banks and trust companies, as, in his judgment, may be useful;

(2) A statement of every bank or trust company whose business has been closed during the year, that has failed or voluntarily retired during the year;

(3) The name of banks or trust companies placed in his hands in process of liquidation, and the amount of dividends paid thereon;

(4) Any proposed amendment of the laws relating to banks and trust companies, by which the system, in his judgment, may be improved, and by which the security of creditors, depositors, and stockholders may be increased.

Section 38. KRS 287.690 is amended to read as follows:

(1) If the commissioner has knowledge or reasonable cause to believe that any bank *or trust company,* or any director, officer, employe, agent, or other person participating in the conduct of the affairs of the bank *or trust company* has engaged in violations of law, or charter, rule or regulation by the department, or in unsafe or unsound business practices, he may issue and serve upon such bank, *trust company,* director, officer, employe, agent or other person a notice of charges containing a statement of facts with respect to alleged violations or practices, and not earlier than thirty (30) days nor later than sixty (60) days after service of such statement fix the time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the bank, *trust company,* director, officer, employe, agent or other person.

(2) Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease and desist order.

(3) In the event of such consent, or if upon the record made at any such hearing the commissioner shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, he may issue and serve upon the bank, *trust company,* director, officer, employe, agent or other person an order to cease and desist from any such violation or practice and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

(4) If the commissioner shall determine that the violation or practice, as specified in the notice of charges pursuant to subsection (1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank *or trust company,* or is likely to otherwise seriously prejudice the interests of its depositors *or investors,* he may issue a temporary order requiring the bank *or trust company,* director, officer, employe, agent or other person to cease and desist from any such violation or practice.

(5) A cease and desist order or temporary cease and desist order shall become effective upon service upon the bank *or trust company* or at the expiration of not more than thirty (30) days after the date of service. Unless set aside, limited or suspended, as provided by subsection (6) of this section, a cease and desist order shall remain effective and enforceable pending completion of the administrative proceedings until the commissioner shall dismiss all specified charges, or, where a temporary cease and desist order has issued, until the effective date of a cease and desist order.

(6) Within ten (10) days after service of a temporary cease and desist order, the party or parties served may apply to the circuit court for the county in which the bank is located, or the circuit court of Franklin county, for an injunction setting aside, limiting, or suspending the enforcement, operation or effectiveness of such order pending completion of administrative proceedings, and such court shall have jurisdiction to issue an injunction.

(7) In the case of violation or threatened violation of, or failure to obey, a temporary cease and desist order issued pursuant to this section, the commissioner may apply to the circuit court for the county in which the bank *or trust company* is located, or the circuit court of Franklin county, for an injunction to enforce such order, and it shall be the duty of the court to issue such injunction.

(8) If the commissioner shall determine that any officer or director of a bank *or trust company* has committed any violation of law, rule or regulation or of a cease and desist order which has become final, or has engaged in or participated in any unsafe or unsound practice in connection with the bank *or trust company,* or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such officer or director, and the commissioner determines that the bank *or trust company* has suffered or will probably suffer substantial financial loss or other damages or that the interests of its depositors *or investors* could be seriously prejudiced by reason of such violation or practice of breach of fiduciary duty or that the director or officer has received financial gain by reason of the violation or practice or breach of fiduciary duty, the commissioner may serve upon such director or officer a written notice of intention to remove him from office. The violation, practice or breach must be one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the bank. The written notice shall serve to suspend the officer or director from office. Such suspension shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (10) of this section, shall remain in effect pending the completion of the

administrative proceedings under subsection (9) of this section and until such time as the commissioner shall dismiss the charges specified in such notice or, if an order of removal is issued against the officer or director, the effective date of any such order.

(9) A notice of intention to remove an officer or director from office shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after the date of service of such notice; unless an earlier date is set by the commissioner at the request of such officer or director and for good cause shown. Unless such officer or director shall appear at the hearing in person or by duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal. In the event of such consent, or if upon the record made at any such hearing the commissioner shall find that any of the grounds specified in such notice have been established, the commissioner may issue such orders of suspension or removal from office as he deems appropriate.

(10) Within ten (10) days after an officer or director has been suspended from office, such officer or director may apply to the circuit court for the county in which the bank *or trust company* is located for a stay of such suspension pending the completion of the administrative proceedings pursuant to the notice served upon such officer or director, and such court shall have jurisdiction to grant such stay.

(11) The bank, *trust company* or person assessed shall be afforded an opportunity for a hearing upon request made to the commissioner within ten (10) days after issuance of the assessment notice. Any such hearing shall be on the record and the commissioner's determination shall constitute a final order. If no hearing is requested within the ten (10) days, the notice of assessment shall constitute a final order.

(12) Any person aggrieved by a final order of the commissioner under subsections (9) or (11) of this section may obtain a review of the order by filing in the circuit court for the county in which the bank *or trust company* is located a petition of appeal within ten (10) days after the rendition of a final order. A copy of the petition shall be served upon the commissioner and thereupon the commissioner or his agent shall certify and file in court a copy of the record or other evidence upon which the order is entered. No objection to the order may be considered by the court unless it was *argued* [~~urged~~] before the commissioner or there were reasonable grounds for failure to do so.

(13) The commissioner may apply to the circuit court for the county in which the bank *or trust company* is located for an injunction to enforce any order issued under subsection (9) of this section or any assessment made under subsection (11) of this section, and it shall be the duty of the court to issue such injunction.

Section 39. KRS 287.710 is amended to read as follows:

As used in KRS 287.720 to 287.770, unless the context otherwise requires:

(1) "Bank" means a bank[~~, trust company or combined bank and trust company~~] organized under the laws of this state or of the United States, or any assignee of the bank's rights under a revolving credit plan.

(2) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number or by any other name, issued for use in obtaining money, goods, services or anything else of value on credit.

(3) "Debtor" means a person to whom or for whose benefit credit is extended pursuant to a revolving credit plan and any other person having actual, implied or apparent authority to obtain extensions of credit under such plan for the debtor.

(4) To "extend credit" or "extension of credit" means the right granted by a bank to a debtor to defer payment of debt, incur debt and defer its payment, or purchase goods, services or anything else of value and defer payment therefor pursuant to a revolving credit plan.

(5) "Finance charge" means the sum of all charges, payable directly or indirectly by the debtor, and imposed directly or indirectly by a bank as an incident to an extension of credit pursuant to a revolving credit plan, including interest and any amount payable under a point, discount or other system of additional charges, service or carrying charges, loan fee, finder's fee or similar charge, fees for an investigation or credit report or premiums or other charges required by the bank to be purchased from or through it or an agency named by it for any guarantee or insurance protecting the bank against the debtor's default or other credit loss. The term does not include amounts, if any, collected by the bank, or included in the extension of credit which are fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to credit extended pursuant to the plan or taxes.

(6) "Revolving credit plan" or "plan" means an arrangement between a bank and a debtor pursuant to which:

(a) The bank may extend credit to the debtor by permitting the debtor to make purchases of goods, services and anything else of value or obtain loans, from time to time, directly from the bank or indirectly by use of a credit card, check or other device, as the plan may provide;

(b) The unpaid balances of purchases made, the principal of loans obtained and finance and other appropriate charges are debited to the debtor's account;

(c) A finance charge, if made, is not pre-computed, but is computed on the outstanding unpaid balances of the debtor's account from time to time; and

(d) The bank renders bills or statements to the debtor at regular intervals, which need not be a calendar month (the "billing cycle"), the amount of which bills or statements is payable by and due from the debtor on a specified date stated in such bill or statement or, at the debtor's option, may be paid in installments.

SECTION 40. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) There is created a financial institutions board. The board shall consist of nine (9) members appointed by the governor who shall serve terms of six (6) years, except the initial terms shall be established as hereafter provided:

(a) Four (4) members selected from the banking industry regulated by the department with appropriate recognition as to bank size and geographic diversity;

(b) One (1) member selected from the broker/dealer securities industry regulated by the department;

(c) One (1) member selected from the credit union industry regulated by the department;

(d) One (1) member selected from the consumer finance or industrial loan industry regulated by the department;

(e) One (1) member selected from the public at large who is knowledgeable concerning financial institutions, but who is not an employe, officer or director of any financial institution; and

(f) The commissioner, who shall also serve as chairman of the board.

(2) All members of the board from the banking industry, securities industry, credit union industry, consumer finance or industrial loan industry shall be persons with practical experience in the industry so represented and currently serving at the executive level of that industry at the time of their appointment.

(3) At the first meeting of the board, a drawing by lot shall be conducted to determine the length of each original member's term. Initially, there shall be four (4) six-year terms, two (2) four-year terms, and two (2) two-year terms. Vacancies in the membership of the board shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.

(4) No member of the board, other than the commissioner, shall serve more than two (2) consecutive terms on the board.

(5) The board shall first meet at the call of the governor and thereafter as the board shall determine, but at least quarterly, at a time and place determined by the chairman. The board may elect other officers for the conduct of its business. A majority of board members shall constitute a quorum, and a decision shall require the majority vote of those present. Each board member shall have one (1) vote, and voting by proxy shall be prohibited.

(6) Board members shall receive one hundred dollars ($100) per diem for each board meeting which they attend and shall be reimbursed for other reasonable and necessary expenses incurred while engaged in carrying out the duties of the board.

(7) The board shall:

(a) Prepare and submit at the governor's request a list of candidates qualified to serve as commissioner and recommend to the governor a proposed salary for each nomination for commissioner;

(b) Recommend to the governor a proposed salary structure for other departmental staff in order to provide competitive salaries for recruitment and retention of staff;

(c) Receive and comment on various reports relating to the department and its activities as submitted to the board by the commissioner or the governor; and

(d) Review, consider and make recommendations to the commissioner on any matters referred to the board by the commissioner or the governor.

(8) In no event shall the board or its members interfere with the statutory duties of the commissioner whose decisions shall be governed by law.

SECTION 41. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

As used in Sections 41 through 58 of this Act:

(1) "Bank" means any bank, which is now or may hereafter be organized under the laws of this state;

(2) "FDIC" means the Federal Deposit Insurance Corporation and includes any successor to the corporation or other agency or instrumentality of the United States which undertakes to discharge the purposes of the corporation;

(3) "Receivership court" means the circuit court for the county in which the bank is located; and

(4) "Insolvent" means that appearing upon examination of any bank its liabilities exceed its assets or it cannot meet its obligations in the usual and ordinary course of business for any reason.

SECTION 42. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

This Act is applicable to all state banks the deposits of which are to any extent insured by the FDIC.

SECTION 43. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may take possession and close a bank for purposes of liquidation in any case in which he finds that the bank:

(a) Is insolvent;

(b) Has permitted capital to become impaired to a level which does not permit the bank to operate in a safe and sound manner;

(c) Has had insurance of depositors' accounts terminated by the FDIC; or

(d) Has requested through its board of directors that the commissioner take possession for the benefit of depositors, other creditors and shareholders.

(2) If the commissioner has taken possession of and closed a bank for purpose of liquidation, the commissioner shall forthwith issue a written finding of one (1) or more of the grounds for closing provided in this section and shall appoint a receiver for the bank. The commissioner shall immediately thereafter apply to the receivership court for confirmation of the appointment of a receiver. The court shall act upon the application forthwith and may proceed without notice to any person.

SECTION 44. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

The commissioner shall tender appointment as receiver to the FDIC if any deposits in the closed bank are insured by the FDIC. Upon acceptance of the appointment as receiver, the FDIC shall not be required to post bond.

SECTION 45. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Upon confirmation of the appointment of a receiver, title to all assets of the bank shall vest in the receiver without the execution of any instruments of conveyance, assignment, transfer or endorsement.

SECTION 46. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Immediately after closing any state bank for purposes of liquidation under the provisions of Section 43 of this Act, the commissioner shall post an appropriate notice of closing at the main entrance of the bank, and thereafter no judgment lien, attachment lien or any voluntary lien shall attach to any asset of said bank, nor shall the directors, officers or agents of such bank thereafter have authority to act on behalf of said bank or to convey, transfer, assign, pledge, mortgage or encumber any assets thereof.

SECTION 47. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) A receiver shall have the following powers:

(] To take possession of all books, records and assets of the bank;

(b) To collect all debts, claims and judgments belonging to the bank, and to do such other acts as are necessary to preserve and liquidate its assets;

(c) To execute in the name of the bank any instrument necessary or proper to effectuate its powers or perform its duties as receiver;

(d) To initiate, pursue and defend litigation involving any right, claim, interest or liability of the bank;

(e) To exercise any and all fiduciary functions of the bank as of the date of appointment as receiver;

(f) Subject to the approval of the receivership court, to borrow money as necessary in the liquidation of the bank, and to secure such borrowings by the pledge or mortgage of bank assets; the repayment of money borrowed under this subsection and interest thereon shall be considered an expense of administration under Section 52 of this Act;

(g) Subject to the approval of the receivership court, to abandon or convey title to any holder of a mortgage, security deed, security interest or lien against property in which the bank has an interest, whenever the receiver determines that to continue to claim such interest is burdensome and of no advantage to the bank, its depositors, creditors or shareholders;

(h) Subject to the approval of the receivership court, to sell any and all real and personal property, to compromise any debt, claim or judgment due to the bank and to discontinue any action or other proceeding pending therefor; and

(i) Subject to the approval of the receivership court, to avoid preferential transfers as defined in Section 48 of this Act.

(2) A receiver shall have the following duties:

(a) To collect, preserve, and liquidate the bank's assets as expeditiously as is compatible with the best interests of the bank and its depositors, creditors and shareholders;

(b) To file with the receivership court:

1. A detailed statement of the assets and liabilities of the bank within thirty (30) days of confirmation; and

2. A report of its actions in the administration of the liquidation proceedings, together with such other information as the receivership court may require, every ninety (90) days thereafter;

(c) To examine claims and reject any claim that is improper; and

(d) Unless the receivership court orders otherwise, furnish such information concerning the bank and the administration of the liquidation proceedings as is requested by a depositor, creditor or shareholder.

SECTION 48. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) A preference is a transfer of any of the property of the bank:

(a) To or for the benefit of a creditor;

(b) For or on account of an antecedent debt owed by the bank before such transfer was made;

(c) Made while the bank was insolvent;

(d) Made:

1. On or within ninety(90) days before the date of the closing of a bank under Section 43 of this Act if such creditor had reasonable cause to believe the bank was insolvent at the time of such transfer; or

2. On or within one (1) year before the date of the closing of a bank under Section 43 of this Act if such creditor was a director, officer or person in control of the state bank and had reasonable cause to believe the bank was insolvent at the time of such transfer; and

(e) That enables such creditor to obtain a greater percentage of his debt than some other creditor of the same class.

(2) A preference does not include a transfer:

(a) To the extent that such transfer was a substantially contemporaneous exchange for new value given to the bank; or

(b) To the extent that such transfer was made in payment of a debt incurred in the ordinary course of the bank's business made not later than forty-five (45) days after such debt was incurred.

SECTION 49. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

The receiver may, with ex parte approval of the receivership court, sell all or any part of the bank's assets to another state or national bank or to the FDIC, provided that the effect of such sale shall not be to prefer one (1) or more members of a class of creditors, including uninsured deposit liabilities, over other members of the same class of creditors as set forth in Section 51 of this Act. In like manner the receiver may borrow from the FDIC any amount necessary to facilitate the assumption of deposit liabilities by a newly chartered or existing bank, assigning any part or all of the assets of the bank as security for such loan.

SECTION 50. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

All parties having claims against the bank shall present their claims substantiated by legal proof to the receiver within one hundred eighty (180) days after the bank closing. The receiver shall cause notice of the claims procedure prescribed by this section to be published once a week for twelve (12) consecutive weeks in a local newspaper of general circulation and to be mailed to each person whose name appears as a creditor upon books of the bank, at this last address of record. The receiver shall notify in writing any claimant whose claim has been rejected within one hundred eighty (180) days following receipt of his claim. Notice shall be effective when mailed. Any claimant whose claim has been rejected by the receiver may petition the receivership court for a hearing on his claim within sixty (60) days from the date of his claim is rejected.

SECTION 51. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Any claim filed after the one hundred eighty (180) day claim period prescribed by Section 50 of this Act and subsequently accepted by the receiver or allowed by the receivership court, shall be entitled to share in the distribution fo assets only to the extent of the undistributed assets in the hands of the receiver on the date such claims are accepted or allowed.

SECTION 52. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) All claims against the bank's estate, approved by a court of competent jurisdiction, shall be paid in the following order:

(a) The actual and necessary administration expenses of the liquidation;

(b) Claims given priority under other provisions of state or federal law;

(c) General liabilities;

(d) Debt subordinated to the claims of depositors and general creditors; and

(e) Equity capital securities.

(2) No interest on any claim shall be paid until all claimants within the above-named classes have received the full principal amount of their claims.

(3) All accepted or approved claims within the same class shall be paid pro rata and without preference. Each secured creditor shall be entitled to prove for, and receive dividends upon, his claim to the extent that such claim exceeds the value of the property securing it.

SECTION 53. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

The granting of a participation in a loan or other asset shall, unless otherwise expressly so stated in the participation agreement or certificate, constitute a sale and assignment of, and transfer of ownership in, a proportionate interest in the loan or other asset and in all security interests, guaranties, and other rights granted under the loan agreement, the note, and all documents of any nature related to the loan or other asset, whether such documents are contemporaneously or thereafter executed. The perfection of a security interest in personal property or the filing of a lien on real property by the selling bank shall be deemed perfection or filing on behalf of each participant, whether or not such participant shall be a participant at the time of such perfection or filing. Upon the closing of a bank under Section 43 of this Act, the receivership estate shall have no interest in such proportionate interests in the loan or other asset, or in any security therefor or any rights therein, therefore, sold a participant, such rights passing, to the extent such rights have not previously passed to the participant without further action on the part of the selling bank or participant. The receiver shall have no greater rights under any participation agreement than did the closed bank immediately prior to its closing.

SECTION 54. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Within one hundred eighty (180) days of the date of the closing of a bank, the receiver may at his election reject any lease to which the closed bank is a party without any further liability to the closed bank. The receiver's election to reject a lease creates no claim for rent other than rent accrued to the date of termination or for actual damages, if any, for such termination not to exceed the equivalent of six (6) months' payment.

SECTION 55. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Whenever the FDIC pays or makes available for payment the insured deposit liabilities of a closed bank, the FDIC, whether or not it acts as receiver, shall be subrogated to all rights of depositors against the closed bank to the same extent as subrogation is provided for in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1811 et seq. in the case of a national bank.

SECTION 56. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) The receiver, with the approval of the receivership court, has the authority to appoint a successor to all rights, obligations, assets, deposits, agreements and trusts held by the closed bank as trustee, administrator, executor, guardian, agent and all other fiduciary or representative capacities. The successor's duties and obligations commence upon appointment to the same extent binding upon the former bank and as though the successor had originally assumed such duties and obligations. Specifically, the successor shall succeed to and be entitled to administer all trusteeships, administrations, executorships, guardianships, agencies and all other fiduciary or representative proceedings to which the closed bank is named or appointed in wills, whenever probated, or to which it is appointed by any other instrument, court order or by operation of law.

(2) Nothing in this section shall be construed to impair any right of the grantor or beneficiaries of trust assets to secure the appointment of a substituted trustee or manager.

(3) Within thirty (30) days after appointment, the successor shall give written notice, insofar as practicable, to all interested parties named in the books and records of the bank or in trust documents held by it that such successor has been appointed in accordance with state law.

SECTION 57. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

This Act provides the exclusive procedure for the appointment of a receiver or other liquidating agent of a bank under the laws of this state.

SECTION 58. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Subject to the approval of the receivership court the closed bank's records may be destroyed after receiver determines that there is no further need for them.

Section 59. The following KRS sections are repealed:

287.130 Use of funds of combined bank, trust and title insurance company.

287.510 Procedure when bank's reserve is low.

287.520 Institution may place its affairs under control of department. hands of receiver -- Reports of receivers.

287.540 Procedure when capital stock has been impaired.

287.560 Department to take charge of insolvent institution -- Warning against unsafe policies -- Appointment of receiver.

287.570 Special officers and agents for liquidating institutions.

287.580 Special deputy commissioner for liquidation -- Bond.

287.590 Compensation of person taking charge of insolvent institution.
287.600 Reports concerning insolvent institution -- Claims of creditors -- Review.
287.610 Distribution of assets.
287.620 Persons having charge of closed and insolvent institutions may borrow money.
287.650 Reorganization of closed or suspended institutions -- Procedure.

The Committee Amendment No. 1 to **HB 937** is as follows:

Amend printed copy of **HB 937**, page 70 after line 19 and before line 20 by inserting:

"Section 59. KRS 287.990 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 287.030 shall be fined not less than twenty ($20.00) nor more than fifty dollars ($50.00) for each day he is engaged in the private banking business.

(2) Any institution that fails to make the report required by KRS 287.420 to the commissioner within five (5) days after the report is due or demanded, or that fails to have the report published as required by KRS 287.420, shall pay a penalty of two hundred dollars ($200) to be sued for and collected by the commissioner in the name of the state.

(3) If any person violates subsection (3) of KRS 287.440 his office shall ipso facto become vacant. The president or cashier of any bank or trust company to which any person becomes indebted in violation of subsection (3) of KRS 287.440 shall immediately report such fact to the commissioner [~~of banking and securities~~], who shall remove the person so offending.

(4) Any receiver of an insolvent institution who fails to comply with the provisions of this chapter shall be subject to the same penalties provided for solvent institutions and officers so offending.

(5) Any directors of a bank who knowingly violate, or knowingly permit any officer or employe of the bank to violate, any of the laws relating to banks, shall be jointly and severally liable to the creditors and stockholders for any loss or damage resulting from such violation. If the loss or damage is not made good within a reasonable time, the commissioner, with the consent of the attorney general, shall institute proceedings to revoke the corporate powers of the bank.

(6) Any deputy commissioner or any examiner who has knowledge of the insolvency or unsafe condition of a [~~state~~] bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who fails to immediately present a signed report of such facts to the commissioner, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than one hundred ($100) nor more than two thousand dollars ($2,000) for each offense.

(7) Any commissioner who has knowledge of the insolvency or unsafe condition of a state bank or trust company, or that it is inexpedient to permit the bank or trust company to continue business, and who wilfully fails to take the action prescribed by this chapter, or who violates any of the provisions of this chapter, shall forfeit his office and shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000) for each offense.

(8) Any bank or trust company that knowingly fails to make a report required by law or by the commissioner within the time designated for the making thereof, or fails to include in such report any matter required by law or by the commissioner, or fails to publish a report within thirty (30) days after it should have been published, or fails to pay when due the fees for filing reports or for an examination of the bank, shall be subject to a penalty of twenty-five dollars ($25.00) for each day of delinquency, but the aggregate penalty for each kind of offense shall not exceed two hundred and fifty dollars ($250).

(9) Each person, bank or trust company that wilfully makes or transmits a false report or refuses to submit its books, papers and assets for examination, or any officer of a bank who refuses to be examined under oath concerning the affairs of the bank, shall be severally fined not less than one hundred ($100) nor more than five hundred dollars ($500).

(10) Whenever any penalty imposed by subsections (4), (6), (7), (8), or (9) is not paid, the attorney general shall institute an action, in the name of the state, in the Franklin Circuit Court or the circuit court of the county in which the offense was committed, for the recovery of the penalty.

(11) Any person violating any of the provisions of KRS 287.225 shall be guilty of a misdemeanor and fined not less than fifty dollars ($50.00) nor more than two thousand dollars ($2,000).

(12) Any person who willfully makes charges in excess of those permitted by KRS 287.710 to 287.770 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for not more than six (6) months, or both.

(13) Any bank which violates any provision of KRS 287.710 to 287.770, except as a result of an accidental or bona fide error shall be barred from the recovery of any finance charges permitted by KRS 287.740 and 287.750, and the debtor, or his legal representatives, may recover back, in an action against the bank, any amounts paid to the bank on account of such finance charge; provided such action is commenced within two (2) years from the date such violation first occurred; but the bank may nevertheless recover from the debtor an amount equal to the principal of extensions of credit made pursuant to a revolving credit plan

and any charges not prohibited by KRS 287.760.

(14) Notwithstanding the provisions of subsections (12) and (13) of this section, any failure, other than a willful and intentional failure, to comply with any provisions of KRS 287.710 to 287.770 may be corrected during the billing cycle next succeeding the receipt by the bank of written notice thereof from the debtor, and if so corrected, the bank shall not be subject to any penalty under KRS 287.710 to 287.770.

(15) Any bank *or trust company* which violates or any officer, director, employe, agent, or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 287.690 which has become final shall forfeit and pay a civil penalty of not more than one thousand dollars ($1,000) per day for each day such violation continues. The penalty shall be assessed and collected by the commissioner by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding or abetting a violation. In determining the amount of the penalty the commissioner shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

On page 70, line 20, after "Section" delete "59." and insert in lieu thereof "69."

SB 148, AN ACT relating to loan production offices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of this section:

(a) "Loan production office" means a bank office located at a place other than the principal or branch office, at which bank employes solicit and originate loans for final approval and disbursement of funds at the principal or branch office; and

(b) "Disbursement of funds" is the process by which a bank officer in a principal or branch office issues a negotiable instrument at the principal or branch office.

(2) No bank shall operate a loan production office without prior approval of the commissioner. The commissioner shall approve the application unless he finds that:

(a) The proposed operation of the loan production office is not in accordance with this Act;

(b) The financial standing, moral character and capability of the bank and its management which proposes to operate a loan production office are such as will jeopardize the financial stability of the bank;

(c) There is no reasonable assurance of sufficient volume of business for the proposed loan production office to be successful; and

(d) The public convenience and advantage will not be promoted by the opening of the proposed loan production office.

(3) All extensions of credit originated in a loan production office shall be in accordance with disclosure provisions, usury rates and other fees and charges authorized by law for banks.

(4) Loan production offices shall not accept deposits or conduct any other banking functions except those enumerated in paragraph (a) of subsection (1) of this section.

(5) The department may examine the operations of any loan production office for the purpose of determining that the scope of its activities does not exceed that allowed in this section. Banks operating loan production offices shall maintain copies of records relating to extensions of credit originated in loan production offices at the principal office for examination purposes.

(6) The application and appeal process set forth in KRS 287.061 and 287.062 and the cease and desist powers of the commissioner set forth in KRS 287.690 shall apply to loan production offices.

SB 176, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 3, IS CREATED TO READ AS FOLLOWS:

A "combined stock and mutual" insurer is an incorporated insurer with capital divided into shares owned by its shareholders, but which is controlled by the votes both of its stockholders and of its participating policyholder members to the extent any such rights of membership are granted and specified in the insurer's policies or its articles of incorporation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 24, IS CREATED TO READ AS FOLLOWS:

(1) A domestic stock or mutual insurance company may amend its articles of incorporation so as to become a combined stock and mutual company; provided, that no such amendment shall deprive any stockholder or member or policyholder of the right, at any and all meetings of stockholders and members or policyholders held thereafter, to cast as many votes for directors as are provided by the articles of incorporation in force at the time of the adoption of such amendment, or by the law in force at such time. No such amendment shall be construed to change the identity of the corporation and it shall thereafter continue to be governed by the laws applicable thereto at the time of such amendment and as amended hereafter and not inconsistent with this subtitle, as well as those relating to the added characteristic of capital stock or mutuality which it shall have acquired by such amendment.

(2) The articles of incorporation of a combined stock and mutual insurance company may be amended in any respect provided by KRS Chapter 271A and this subtitle, in the manner therein provided. The articles of incorporation of a combined stock and mutual insurance company may also be amended in respect to any matter which the original articles of incorporation of a combined stock and mutual insurance company might lawfully have contained, or so as to vest in its board of directors authority to make and alter bylaws subject to the power of the stockholders and members to change or repeal such bylaws, by the affirmative vote, at a regular meeting of stockholders and members or at a special meeting of stockholders and members called for that expressly stated purpose by the board of directors which shall first have proposed the amendment and declared it to be advisable, of:

(a) A majority of the total number of votes to which stockholders are entitled; and

(b) At least one-fifth (1/5) of the total number of votes to which participating policyholder members are entitled, provided the proposed amendment does not receive the negative vote of more than five percent (5%) of the total number of votes to which all participating policyholder members are entitled.

(3) The articles of incorporation of a combined stock and mutual insurance company may also be amended so as to increase or decrease its capital stock, or so as to change the number and par value of the shares of its capital stock, or so as to limit or deny to stockholders the preemptive right to subscribe to any or all shares of stock which may be authorized to be thereafter issued, by a majority vote of all its shares but without the vote of its members, at a regular meeting or at a special meeting of stockholders called for that expressly stated purpose by the board of directors which shall first have proposed the amendment and declared it to be advisable and not adverse to or in conflict with the rights and interests of the members, provided that if the proposed amendment is to increase or decrease the capital stock or to change the number of the shares of the capital stock, the resolution specifying the proposed amendment and the certificate of amendment shall expressly provide:

(a) That the stockholders holding all its shares shall, at all meetings, be entitled to the same number of total votes after the amendment is adopted as they were entitled to before the amendment; and

(b) That each stockholder shall, at all meetings, be entitled to a fraction of one (1) vote for each share of stock held by him, the numerator of which fraction shall be the number of shares outstanding before the first such amendment is adopted and the denominator of which fraction shall be the number of shares outstanding.

Section 3. KRS 304.3-070 is amended to read as follows:

(1) To qualify for and hold authority to transact insurance in this state, an insurer must be otherwise in compliance with this code and with its charter powers, and must be an incorporated stock or mutual insurer, *or a combined stock and mutual insurer,* or a reciprocal insurer, or Lloyd's plan insurer, of the same general type as may be formed as a domestic insurer under this code, except that:

(a) No foreign insurer shall be authorized to transact insurance in this state which does not maintain reserves as required by subtitle 6 as applicable to the kind or kinds of insurance transacted by such insurer, wherever transacted in the United States; or which transacts business anywhere in the United States on the assessment plan, or stipulated premium plan, or any similar plan.

(b) No insurer shall be authorized to transact a kind of insurance in this state unless duly authorized or qualified to transact such insurance in the state or country of its domicile.

(c) No insurer shall be authorized to transact in this state any kind of insurance which is not within the definition as set forth in subtitle 5.

(d) No such authority shall be granted or continued as to any insurer while in arrears to the state for fees, licenses, taxes, assessments, fines or penalties accrued on business previously transacted in this state.

(e) A combined stock and mutual insurer must maintain separate accounting for income, expense and surplus retention in a manner as provided by a regulation to be promulgated by the commissioner.

(2) In determining the solvency of or impairment to any foreign or alien insurer which is requesting the issuance or continuance of any certificate of authority to do business in this state, the commissioner may admit as assets only those items which would qualify as admitted assets for a domestic insurer similarly situated.

Section 4. KRS 304.24-010 is amended to read as follows:

(1) This subtitle shall apply only to domestic stock insurers, *domestic combined stock and mutual insurers,* and domestic mutual insurers transacting or proposing to transact insurance on the cash premium or legal reserve plan, except that KRS 304.24-160, 304.24-250, and 304.24-310 shall also apply to foreign and alien insurers.

(2) All provisions of this subtitle relating to stock companies and all such provisions relating to mutual companies shall, so far as applicable, relate to and govern combined stock and mutual companies and the rights of stockholders and participating policyholder members thereof.

Section 5. KRS 304.24-020 is amended to read as follows:

(1) A "stock" insurer is as defined in KRS 304.3-010.

(2) A "mutual" insurer is as defined in KRS 304.3-020.

(3) A "combined stock and mutual" insurer is as defined in Section 1 of this Act.

Section 6. KRS 304.24-030 is amended to read as follows:

Domestic stock, *combined stock and mutual, or* [~~and~~] mutual insurers shall be governed by the applicable provisions of the general statutes of this state relating to private corporations organized for profit, as such statutes are now or hereafter may be constituted, except where such general statutes are in conflict with the express provisions of this subtitle and the reasonable implications thereof, and in which case the provisions of this subtitle shall govern.

Section 7. KRS 304.24-040 is amended to read as follows:

(1) This section applies to stock, *combined stock and mutual, or* [~~and~~] mutual insurers hereafter incorporated in this state. Such an insurer may be formed for the purpose of transacting any kind or kinds of insurance, as well as annuity business.

(2) Incorporators. Three (3) or more individuals, none of whom is less than eighteen (18) years of age, may incorporate a stock insurer; ten (10) or more such individuals may incorporate a mutual insurer. At least a majority of the incorporators must be citizens of the United States. At least a majority of the incorporators must be residents of Kentucky.

(3) Articles. The incorporators shall deposit the articles of incorporation, in quadruplicate originals, with the commissioner, and such articles shall not be filed with the secretary of state until approved by the commissioner as provided in KRS 304.24-050, and the commissioner's approval has been stamped upon or otherwise attached to the articles. In addition to the applicable requirements of laws in this state governing the incorporation of business corporations generally:

(a) The name of the corporation, which shall be subject to KRS 304.3-010, shall contain the words "insurance company;" if a mutual, *or a combined stock and mutual,* the word "mutual" must be a part of the name.

(b) The articles of incorporation shall specify the kind or kinds of insurance proposed to be transacted.

(c) Each share of capital stock shall have a par value of not less than $1.00.

(d) If a mutual, *or a combined stock and mutual,* the articles of incorporation shall state the maximum contingent liability of its *participating policyholder* members, other than as to nonassessable policies, for payment of losses and expenses incurred. Such liability shall be as stated in the articles of incorporation, but shall not be less than one (1) or more than six (6) times the premium for member's policy at the annual premium rate for a term of one (1) year.

(e) The names and residence addresses of the incorporators.

(4) Unless otherwise provided in the articles of incorporation or an amendment thereto, each stockholder of a combined stock and mutual insurance company shall, at all meetings, be entitled to one (1) vote for each share of common stock held by him, and each holder of a policy entitled to participate in profits or savings shall be a member and, as such, shall be entitled to vote on the same basis to which he would be entitled in a mutual company under KRS 304.24-210.

Section 8. KRS 304.24-310 is amended to read as follows:

(1) If provided for in its articles of incorporation or charter, *an* [~~a stock insurer or mutual~~] insurer may issue any or all of its policies or contracts with or without participation in profits, savings, unabsorbed portions of premiums, may classify policies issued and risks insured on a participating and nonparticipating basis, and subject to KRS 304.15-380, may determine the right to participate and the extent of participation of any class or classes of policies. Any such classification or determination shall be reasonable.

(2) A life insurer may issue both participating and nonparticipating policies or contracts, only if the right or absence of right to participate is reasonably related to the premium charged.

(3) No dividend, otherwise earned, shall be made contingent upon the payment of renewal premium on any policy or contract.

The Committee Amendment No. 1 to **SB 176** is as follows:

Amend printed copy of **SB 176,** page 1, line 3, after the word "*mutual*" insert "*life*" before the quotation marks page 1, line 12, after the word "*mutual*" insert "*life*"

page 1, line 14, after the word "*mutual*" insert "*life*"

page 2, line 12, after the word "*mutual*" insert "*life*"

page 2, line 15, after the word "*mutual*" insert "*life*"

page 3, line 8, after the word "*mutual*" insert "*life*"

page 4, line 15, after the word "*mutual*" insert "*life*"

page 5, line 12, after the word "*mutual*" insert "*life*"

page 5, line 13, add an "*s*" to the word "*expense*"

page 5, line 13, after the word "*expenses*" add "*, assets, liabilities and surplus funds allocated between the "mutual" branch and the "stock" branch,*"

page 5, lines 13 and 14 delete "*and surplus retention*"

page 5, line 15, after the period add the following language:

"The "mutual" branch shall not invest any monies in equity securities of the "stock" branch, nor shall it loan any monies to the "stock" branch. The "stock" branch shall not loan any monies to the "mutual" branch.

(f) A life insurer in forming the "stock" branch or the "mutual" branch of a combined stock and mutual life insurer, must possess the capital funds required pursuant to KRS 304.3-120 for the stock branch, and must possess the surplus funds required under KRS 304.24-100 for the mutual branch. The commissioner of insurance shall not grant a certificate of authority to any life insurer to conduct its business as a combination stock and mutual life insurer, unless the aforesaid capitalization requirements are fulfilled."

page 5, line 25, after the word "*mutual*" insert the word "*life*"

page 6, line 8, after the word "*mutual*" add the word "*life*"

page 6, line 17, after the word "*mutual*" add the word "*life*" before the quotations marks

page 6, line 21, after the word "*mutual*" add the word "*life*"

page 7, line 7, after the word "*mutual*" add the word "*life*"

page 8, line 9, after the word "*mutual*" add the word "*life*"

page 8, line 22, after the word "*mutual*" add the word "*life*"

page 9, line 6, delete "*an*" and remove strikethroughs and brackets around "a stock insurer or mutual"

page 9, line 18, after the period add the following language:

A combined stock and mutual life insurer shall only issue participating policies or contracts in its "mutual" branch, and shall only issue nonparticipating policies or contracts in its "stock" branch.

The Committee on Business Organizations and Professions reported **HB 557, HB 738, HB 807, HB 808, SB 46** with Committee Substitute attached thereto, and **SB 215**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 557, AN ACT relating to commerce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.330 is amended to read as follows:

(1) The commission may make application to the proper federal authorities for the establishment of a foreign trade zone wherever and whenever such a zone is desirable. KRS 65.510 to 65.530, 139.483, 154.310 to 154.345 will constitute legislative authority and approval of such applications, as required by federal law.

(2) Nothing contained in this section shall be construed to prohibit any corporation organized under KRS Chapter 271A from being organized and chartered for the purposes of establishing, operating and maintaining a foreign trade zone within this state pursuant to Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

Any corporation may be organized and chartered for the purposes of establishing, operating, and maintaining a foreign trade zone within this state, under the provisions of 19 U.S.C.A. 81, as amended or reenacted, and may apply to the board created under the federal act for a grant of the privilege of establishing, operating, and maintaining such a zone. If the application is granted, the corporation may accept the grant and establish, operate, and maintain such a zone subject to the federal act, as amended or reenacted, and rules adopted thereunder.

HB 738, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.300 is amended to read as follows:

No retailer of distilled spirits and wine shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any distilled spirits or wine on credit, except that a bona fide private club or hotel holding a license may sell on reasonable credit to its members or registered guests; provided, however, sales by retail drink [~~when purchased with a meal at a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) people at tables~~] may be made by use of national or bank credit cards wherein the credit card company has agreed to payment to the licensee for such charges. However, nothing in this section shall be construed to authorize a licensee to issue his own credit cards or extend a personal credit to patrons.

HB 807, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS *243.020* [~~243.030~~] shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; for the second offense he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the third and each subsequent offense, he shall be fined not less than five hundred (500) nor more than five thousand dollars ($5,000), or be imprisoned in the penitentiary for not more than five (5) years, or both.

(3) Any person who violates subsection (3) of KRS 243.020 shall be fined not less than one hundred (100) nor more than five hundred dollars ($500).

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars

($1,000), or be imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(6) Any person required to pay any tax or file any report or statement provided by KRS 243.710 to 243.850, who fails to pay the tax or file any report or statement when due shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of ten dollars ($10) or an amount equal to twenty percent (20%) of the tax due and delinquent, whichever is greater.

(7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.

HB 808, AN ACT relating to plumbing materials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.150 is amended to read as follows:

No person shall *sell or* use unsafe or defective material *or any material not specifically approved by the state plumbing code* in the work of plumbing or drainage. Only the best known methods of installing materials, fixtures, appurtenances and appliances, including water supply piping, waste, ventilating and soil piping, and sewage piping shall be employed.

SB 46, AN ACT relating to the registration of geologists.

WHEREAS, the practice of geology in this state is a presently unregulated professional field; and

WHEREAS, there is a need to introduce qualifying criteria for the regulation of the practice of geology in order to safeguard life, health and property, and to promote the public welfare; and

WHEREAS, such action recommends itself through benefits to the safety, health and property of the people of Kentucky and to the promotion of the public welfare; and

WHEREAS, these benefits are in the fields of geology as related to groundwater, mineral exploration and development, geologic hazards, the further development of the science of geology and other geologic matters of concern to the people of the Commonwealth.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 328 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Geology" means the investigation, analysis, classification, mapping, and interpretation of the earth's crust and the rocks and other materials which compose it; the study of minerals, gases, and liquids composing and contained within earth materials; and the study and interpretation of geologic materials and processes;

(2) "Geologist" means a person who is qualified by reason of his knowledge of the principles of geology, acquired by professional education and practical experience, to engage in the public practice of geology;

(3) "Public practice of geology" means the performance of service to the public in connection with the description, location, behavior, management or extraction of earth materials, liquids, and gases and the natural processes acting upon them. These services include, but are not limited to:

(a) The mineralogic, chemical and physical description of rocks, sediments, unconsolidated earth materials, metallic and nonmetallic minerals and mineral fluids, including oil, gas and groundwater;

(b) The determination and evaluation of the quantity, quality, physical and chemical characteristics of surface and subsurface earth materials, liquids and gases;

(c) The determination of the effects of weathering of earth materials and the transport and sedimentation of the byproduct of the weathering of these materials;

(d) The identification and delineation of natural subsurface structures affecting earth materials, liquids and gases;

(e) The location and measurement of the magnitude of seismic events in connection with projects of public interest and prediction of the probable location and magnitude of these future events;

(f) The study of land forms as related to subsurface earth materials and structures;

(g) The collection, compilation and preparation of data for or from geologic, geophysical, geochemical, geohydrologic, hydrogeologic, and geomorphic maps;

(h) The evaluation of the effects of natural processes and human activities on terrestrial materials, fluids and gases; or

(i) Other studies applying geologic principles to the utilization, extraction, protection, conservation, or quantification of terrestrial materials, liquids and gases for the preservation of the public health, welfare and safety;

(4) "Registered geologist" means a person who is registered as a geologist under the provisions of this chapter;

(5) "Qualified geologist" means a person who possesses all the qualifications specified in this Act for registration except that he is not now registered in Kentucky; and

(6) "Board" means the Kentucky board of registration for professional geologists.

SECTION 2. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established a board of registration for professional geologists, which shall administer the provisions of this Act. All board members shall be residents of Kentucky and shall be appointed by the governor. The initial board shall consist of four (4) qualified geologists, one (1) of whom shall be the state geologist, and one (1) member from the public at large. With the exception of the member representing the public at large, all subsequent board members shall be registered geologists. The initial terms of appointment, which shall be made by July 15, 1984, shall consist of one (1) member being appointed for a term of one (1) year, one (1) member being appointed for a term of two (2) years, one (1) member being appointed for a term of three (3) years, and one (1) member being appointed for a term of four (4) years. The fifth member shall always be the state geologist. Thereafter, the term of the members of the board shall be for four (4) years and until their successors are appointed.

(2) Board members may succeed themselves. The governor may remove any member of the board for misconduct, incompetence, neglect of duty, or for any good and sufficient cause, in the manner prescribed by law. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor. Members of the board shall serve without pay, but shall be reimbursed for actual and necessary expenses.

(3) Three (3) members shall constitute a quorum.

(4) Board members shall be held free of any personal liability as a result of board action.

(5) The board shall elect from its members a chairperson and secretary prior to August 15th of each year.

(6) Prior to the first day of July each year, the governor may receive nominations for board members from the executive committees of the geological society of Kentucky, the Kentucky section of the American institute of professional geologists, and from other interested parties.

SECTION 3. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) The board shall meet at least once each calendar year and at such other times deemed necessary by the chairperson or the majority of the board upon being given ten (10) days notice.

(2) A roster showing the names and places of business of all registered professional geologists shall be published by the secretary of the board during the month of June each year. Copies of this roster shall be mailed to each person so registered, placed on file with the secretary of the board, and furnished to the public upon request.

(3) The board shall pass upon the qualification of applicants for registration.

(4) The board shall require from applicants for registration evidence of their qualifications and shall judge each applicant on evidence of his professional competency and integrity in accordance with the rules and regulations established by the board.

(5) The board may establish such regulations consistent with the provisions of this Act as may be appropriate and necessary to the conduct of its responsibilities and duties.

(6) The board shall cause to have prepared and shall adopt a code of professional conduct which shall be made known in writing to every registrant and applicant for registration under this Act. Mailing of a copy of such code to persons listed in the roster as prescribed herein shall constitute due notice to all such persons. The board may revise and amend this code of ethics from time to time subject to the consent of the majority of the registrants, and shall forthwith notify each registrant in writing of such revisions or amendments.

(7) The board may revoke or suspend the registration of persons who violate any of the provisions of this Act or regulations promulgated thereunder. However, such action shall be taken only after written notice has been given the person concerned and such person is afforded an opportunity of a hearing before the board.

(8) Any person or organization may prefer charges of fraud, deceit, gross negligence, or misconduct against any registrant. The charges shall be in writing and shall be sworn to by the person or officer of the organization making them, and shall then be filed with the board.

(9) In carrying into effect the provisions of this Act, the board may subpoena witnesses and compel

their attendance, and may also require the submission of books, papers, documents or other pertinent data, in any disciplinary matters, or in any case when a violation of this Act or other laws or regulations of the board is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena, as herein provided, the board may apply to the Franklin Circuit Court to enforce compliance with same.

(10) Any person who feels aggrieved by any action of the board in refusing or revoking their certificate of registration may appeal to the Franklin Circuit Court. After a review of the record, that court shall sustain or reverse the action of the board.

(11) It shall be the duty of the attorney general of Kentucky or such assistants as he may designate to act as legal advisers to the board and render such legal assistance as the board may from time to time require. The board may employ private counsel at its discretion. The cost of private counsel shall be paid exclusively from funds of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) In order to qualify for registration, an applicant must be of good moral character and meet all of the following requirements:

(a) Have successfully completed a minimum of thirty (30) semester hours or forty-five (45) quarter hours of course work in geology, culminating in a baccalaureate or advanced degree from an accredited college or university. At the discretion of the board, courses dealing with applied geological science that are given under the auspices of an academic department other than geology may be considered toward the fulfillment of this requirement;

(b) Have acquired five (5) years of experience in professional geologic work. Professional geologic work shall include the instruction of geology at the college or university level or the geological research of persons at the college or university level and of employes of the United States, state or local governments. In counting years of experience, the board may give one (1) year of credit each for a master's degree or doctoral degree in geology; and

(c) Successfully pass an examination that may be required by the board that has been designed to demonstrate that the applicant has the necessary knowledge and skill to exercise the responsibilities of the public practice of geology.

(2) During the twelve (12) month period beginning July 15, 1984, the board shall waive the examination requirement for the following applicants:

(a) Persons otherwise qualified by education and experience as provided in subsection (1) of this section; or

(b) Persons who derive their livelihood from the public practice of geology who do not meet the minimum educational requirements but who can demonstrate to the satisfaction of the board their competency and who have at least eight (8) years of experience.

(3) Credit toward the experience requirement shall be subject to evaluation by the board.

(4) Documentation of competency and integrity may be required by the board.

(5) Upon application, registration may be provided to those registered or certified as geologists in another state having standards at least equal to those provided herein.

SECTION 5. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for registration shall pay a non-refundable fee established by the board not to exceed one hundred dollars ($100) upon making an application for registration plus an additional fee set by the board not to exceed one hundred dollars ($100) if registration is approved. All fees paid to and collected by the board under the provisions of this Act shall be deposited in a depository designated by the board and disbursed only at the direction of the board. The officer or employe of the board who shall be designated to collect and disburse funds represented by such fees shall be required to execute a bond, with corporate surety, in an amount to be determined by the board.

(2) All applications for registration shall be made upon forms to be provided by the board and shall be signed and sworn to by the applicant. In addition to such other information as the board may require, all applications shall contain a statement of the applicant's educational attainments and record of experience. Names and addresses shall be furnished therein of not less than five (5) persons possessing direct personal knowledge of the experience and work done by the applicant, at least three (3) of whom shall be qualified geologists. Applications shall be filed with the secretary of the board and shall be accompanied by an application fee, to be fixed by the board, in an amount not to exceed one hundred dollars ($100).

SECTION 6. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) All certificates of registration shall expire annually at such time and date as may be designated by the board. It shall be the duty of the board to notify every person registered under this Act of the date of expiration of his certificate and the amount of the renewal fee which shall be fixed by the board and shall not exceed one hundred dollars ($100).

(2) When the renewal fee is not paid within ninety (90) days after the expiration date, that individual's certificate of registration shall be suspended and the name will be deleted from the roster of the board until such renewal fee is paid.

(3) When the renewal fee is not paid for two (2) annual periods, that individual's certificate of registration shall be revoked and shall not be renewed. In the event that an individual whose registration has been revoked desires to again be registered, an application shall be submitted to the board and the individual shall be considered as a new applicant.

SECTION 7. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a certificate of registration, upon payment of the registration fee, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements for registration of this Act. Certificates of registration shall show the full name of the registrant, shall give a serial number, and shall be signed by the chairperson and secretary of the board. The issuance of a certificate of registration by the board shall be prima facie evidence that the person named thereon is entitled to all the rights and privileges of a registered geologist while the said certificate of registration remains in force.

(2) Each registrant hereunder may, upon registration, obtain and use a seal or stamp of registration of the design authorized by the board, bearing the registrant's name and number and the legend "registered professional geologist."

(3) A replacement certificate of registration may be issued, subject to the regulations of the board, to replace any certificate lost, destroyed, or mutilated.

SECTION 8. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

The following persons shall be exempt from the requirement of registration under this Act:

(1) Officers and employes of the United States government, the Commonwealth of Kentucky, or local governments of the Commonwealth while engaged in providing geological services for such governments;

(2) Persons engaged solely in geologic research or the instruction of geology;

(3) A licensed engineer who engages in geological practice as an incident to the practice of his own profession; or

(4) Persons not engaged in the public practice of geology.

SECTION 9. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person other than a registered geologist or a subordinate under the direction of a registered geologist to prepare any geologic plans, reports or documents in which the performance is related to the public welfare or safeguarding of life, health, property or the environment.

(2) It shall be unlawful for any person to publicly practice, or offer to publicly practice geology in this state, as defined in the provisions of this Act, or to use in connection with the person's name or otherwise assume, or advertise any title or description tending to convey the impression that the person is a registered geologist, unless such person has been duly registered or exempted under the provisions of this Act. The right to engage in the practice of geology shall be deemed a personal right, based on the qualifications of the individual as evidenced by the certificate of registration, and shall not be transferable.

(3) After July 1, 1985, except as provided by this Act, it shall be unlawful for anyone other than a geologist registered under this chapter to publicly practice geology, to stamp, seal or certify any plans, maps, reports or other documents with the seal or stamp of a registered geologist, or to use in any manner the title "registered geologist" unless registered.

(4) It shall be unlawful for any person to affix his signature or to stamp, seal, or certify any plans, maps, reports, or other documents after the certificate of registration of the registrant named thereon has expired or has been suspended or revoked, unless the certificate of registration has been renewed or reissued.

SECTION 10. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

The board shall have the power to suspend, refuse to renew, or revoke the certificate of any registrant, to reprimand any registrant, or to place any registrant on probation, who is found guilty by the board of:

(1) The practice of fraud or deceit in obtaining a license;

(2) Any gross negligence, incompetence or misconduct in the practice of geology;

(3) Having been convicted by a court of law of a felony or a crime involving moral turpitude;

(4) Violation of the code of ethics which has been adopted by the board; or

(5) The commission of any unlawful act as set forth in this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

Any person who commits any of the following acts shall be guilty of a class B misdemeanor:

(1) Publicly practices, or offers to publicly practice geology for others in this state without being registered in accordance with the provisions of this Act;

(2) Presents or attempts to use as his own the certificate of registration or the seal of another;

(3) Gives any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration;

(4) Falsely impersonates any other registrant of like or different name;

(5) Attempts to use an expired or revoked certificate of registration of practice at any time during a period the board has suspended or revoked the certificate of registration; or

(6) Violates any of the provisions of this Act or regulations issued under its authority.

The Committee Substitute to **SB 46** is as follows:

SB 46, AN ACT relating to the registration of geologists.

WHEREAS, the practice of geology in this state is a presently unregulated professional field; and

WHEREAS, there is a need to introduce qualifying criteria for the regulation of the practice of geology in order to safeguard life, health and property, and to promote the public welfare; and

WHEREAS, such action recommends itself through benefits to the safety, health and property of the people of Kentucky and to the promotion of the public welfare; and

WHEREAS, these benefits are in the fields of geology as related to groundwater, mineral exploration and development, geologic hazards, the further development of the science of geology and other geologic matters of concern to the people of the Commonwealth.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 328 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Geology" means the investigation, analysis, classification, mapping, and interpretation of the rocks and other materials which compose the earth's crust; the study of minerals, gases, and liquids composing and contained within the earth's crust; and the study and interpretation of geologic materials and processes;

(2) "Geologist" means a person who is qualified by reason of his knowledge of the principles of geology, acquired by professional education and practical experience, to engage in the public practice of geology;

(3) "Public practice of geology" means the performance of service to the public in connection with the geological description, location, or behavior of earth materials, liquids, and gases and the natural processes acting upon them, such as:

(a) The mineralogic, chemical and physical description of rocks, and other materials which compose the earth's crust, metallic and nonmetallic minerals and mineral fluids, including oil, gas and groundwater;

(b) The study and determination of the physical and chemical characteristics of earth materials, liquids and gases;

(c) The identification and delineation of natural subsurface structures affecting earth materials, liquids and gases;

(d) The location and measurement of the magnitude of seismic events in connection with projects of public interest and prediction of the probable location and magnitude of these future events;

(e) The study of land forms as related to subsurface earth materials and natural geologic structures; and

(f) The collection, compilation and preparation of data for or from geologic, geophysical, geochemical, geohydrologic, hydrogeologic, and geomorphic maps.

These services shall not include:

(a) The practice of engineering or land surveying as defined in KRS Chapter 322, and nothing in this Act shall in any way abridge, contravene, supersede, or otherwise change or affect the provisions or intent of KRS Chapter 322; and

(b) Design recommendations, design, or planning related to the practice of engineering or land surveying as defined in KRS Chapter 322.

(4) "Registered geologist" means a person who is registered as a geologist under the provisions of this chapter;

(5) "Qualified geologist" means a person who possesses all the qualifications specified in this Act for registration except that he is not now registered in Kentucky; and

(6) "Board" means the Kentucky board of registration for professional geologists.

SECTION 2. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS

FOLLOWS:

(1) There is created and established a board of registration for professional geologists, which shall administer the provisions of this Act. All board members shall be residents of Kentucky and shall be appointed by the governor. The initial board shall consist of four (4) qualified geologists, one (1) of whom shall be the state geologist, and one (1) member from the public at large. With the exception of the member representing the public at large, all subsequent board members shall be registered geologists. The initial terms of appointment, which shall be made by July 15, 1984, shall consist of one (1) member being appointed for a term of one (1) year, one (1) member being appointed for a term of two (2) years, one (1) member being appointed for a term of three (3) years, and one (1) member being appointed for a term of four (4) years. The fifth member shall always be the state geologist. Thereafter, the term of the members of the board shall be for four (4) years and until their successors are appointed.

(2) Board members may succeed themselves. The governor may remove any member of the board for misconduct, incompetence, neglect of duty, or for any good and sufficient cause, in the manner prescribed by law. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor. Members of the board shall serve without pay, but shall be reimbursed for actual and necessary expenses.

(3) Three (3) members shall constitute a quorum.

(4) Board members shall be held free of any personal liability as a result of board action.

(5) The board shall elect from its members a chairperson and secretary prior to August 15th of each year.

(6) Prior to the first day of July each year, the governor may receive nominations for board members from the executive committees of the geological society of Kentucky, the Kentucky section of the American institute of professional geologists, and from other interested parties.

SECTION 3. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) The board shall meet at least once each calendar year and at such other times deemed necessary by the chairperson or the majority of the board upon being given ten (10) days notice.

(2) A roster showing the names and places of business of all registered professional geologists shall be published by the secretary of the board during the month of June each year. Copies of this roster shall be mailed to each person so registered, placed on file with the secretary of the board, and furnished to the public upon request.

(3) The board shall pass upon the qualification of applicants for registration.

(4) The board shall require from applicants for registration evidence of their qualifications and shall judge each applicant on evidence of his professional competency and integrity in accordance with the rules and regulations established by the board.

(5) The board may establish such regulations consistent with the provisions of this Act as may be appropriate and necessary to the conduct of its responsibilities and duties.

(6) The board shall cause to have prepared and shall adopt a code of professional conduct which shall be made known in writing to every registrant and applicant for registration under this Act. Mailing of a copy of such code to persons listed in the roster as prescribed herein shall constitute due notice to all such persons. The board may revise and amend this code of ethics from time to time subject to the consent of the majority of the registrants, and shall forthwith notify each registrant in writing of such revisions or amendments.

(7) The board may revoke or suspend the registration of persons who violate any of the provisions of this Act or regulations promulgated thereunder. However, such action shall be taken only after written notice has been given the person concerned and such person is afforded an opportunity of a hearing before the board.

(8) Any person or organization may prefer charges of fraud, deceit, gross negligence, or misconduct against any registrant. The charges shall be in writing and shall be sworn to by the person or officer of the organization making them, and shall then be filed with the board.

(9) In carrying into effect the provisions of this Act, the board may subpoena witnesses and compel their attendance, and may also require the submission of books, papers, documents or other pertinent data, in any disciplinary matters, or in any case when a violation of this Act or other laws or regulations of the board is alleged. Upon failure or refusal to comply with any such order of the board, or upon failure to honor its subpoena, as herein provided, the board may apply to the Franklin Circuit Court to enforce compliance with same.

(10) Any person who feels aggrieved by any action of the board in refusing or revoking their certificate of registration may appeal to the Franklin Circuit Court. After a review of the record, that court shall sustain or reverse the action of the board.

(11) It shall be the duty of the attorney general of Kentucky or such assistants as he may designate to act as legal advisers to the board and render such legal assistance as the board may from time to time require. The board may employ private counsel at its discretion. The cost of private counsel shall be paid exclusively

from funds of the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) In order to qualify for registration, an applicant must be of good moral character and meet all of the following requirements:

(a) Have successfully completed a minimum of thirty (30) semester hours or forty-five (45) quarter hours of course work in geology, culminating in a baccalaureate or advanced degree from an accredited college or university. At the discretion of the board, courses dealing with applied geological science that are given under the auspices of an academic department other than geology may be considered toward the fulfillment of this requirement;

(b) Have acquired five (5) years of experience in professional geologic work. Professional geologic work shall include the instruction of geology at the college or university level or the geological research of persons at the college or university level and of employes of the United States, state or local governments. In counting years of experience, the board may give one (1) year of credit each for a master's degree or doctoral degree in geology or geologic engineering; and

(c) Successfully pass an examination required by the board that has been designed to demonstrate that the applicant has the necessary knowledge and skill to exercise the responsibilities of the public practice of geology.

(2) During the twelve (12) month period beginning July 15, 1984, the board shall waive the examination requirement for the following applicants:

(a) Persons otherwise qualified by education and experience as provided in subsection (1) of this section; or

(b) Persons who derive their livelihood from the public practice of geology who do not meet the minimum educational requirements but who can demonstrate to the satisfaction of the board their competency and who have at least eight (8) years of experience.

(3) Credit toward the experience requirement shall be subject to evaluation by the board.

(4) Documentation of competency and integrity may be required by the board.

(5) Upon application, registration may be provided to those registered or certified as geologists in another state having standards at least equal to those provided herein.

SECTION 5. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for registration shall pay a non-refundable fee established by the board not to exceed one hundred dollars ($100) upon making an application for registration plus an additional fee set by the board not to exceed one hundred dollars ($100) if registration is approved. All fees paid to and collected by the board under the provisions of this Act shall be deposited in a depository designated by the board and disbursed only at the direction of the board. The officer or employe of the board who shall be designated to collect and disburse funds represented by such fees shall be required to execute a bond, with corporate surety, in an amount to be determined by the board.

(2) All applications for registration shall be made upon forms to be provided by the board and shall be signed and sworn to by the applicant. In addition to such other information as the board may require, all applications shall contain a statement of the applicant's educational attainments and record of experience. Names and addresses shall be furnished therein of not less than five (5) persons possessing direct personal knowledge of the experience and work done by the applicant, at least three (3) of whom shall be qualified geologists. Applications shall be filed with the secretary of the board and shall be accompanied by an application fee, to be fixed by the board, in an amount not to exceed one hundred dollars ($100).

SECTION 6. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) All certificates of registration shall expire annually at such time and date as may be designated by the board. It shall be the duty of the board to notify every person registered under this Act of the date of expiration of his certificate and the amount of the renewal fee which shall be fixed by the board and shall not exceed one hundred dollars ($100).

(2) When the renewal fee is not paid within ninety (90) days after the expiration date, that individual's certificate of registration shall be suspended and the name will be deleted from the roster of the board until such renewal fee is paid.

(3) When the renewal fee is not paid for two (2) annual periods, that individual's certificate of registration shall be revoked and shall not be renewed. In the event that an individual whose registration has been revoked desires to again be registered, an application shall be submitted to the board and the individual shall be considered as a new applicant.

SECTION 7. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a certificate of registration, upon payment of the registration fee, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements for registration of this

Act. Certificates of registration shall show the full name of the registrant, shall give a serial number, and shall be signed by the chairperson and secretary of the board. The issuance of a certificate of registration by the board shall be prima facie evidence that the person named thereon is entitled to all the rights and privileges of a registered geologist while the said certificate of registration remains in force.

(2) Each registrant hereunder may, upon registration, obtain and use a seal or stamp of registration of the design authorized by the board, bearing the registrant's name and number and the legend "registered professional geologist."

(3) A replacement certificate of registration may be issued, subject to the regulations of the board, to replace any certificate lost, destroyed, or mutilated.

SECTION 8. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

The following persons shall be exempt from the requirement of registration under this Act:

(1) Officers and employes of the United States government, the Commonwealth of Kentucky, or local governments of the Commonwealth while engaged in providing geological services for such governments;

(2) Persons engaged solely in geologic research or the instruction of geology;

(3) Professional engineers registered in the Commonwealth of Kentucky under KRS Chapter 322 who apply geology to the practice of engineering; or

(4) Persons not engaged in the public practice of geology.

SECTION 9. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

(1) With the exception of persons exempted under Section 8 of this Act, it shall be unlawful for any person other than a registered geologist or a subordinate under the direction of a registered geologist to prepare any geologic maps, reports or documents in which the performance is related to the public welfare or safeguarding of life, health or property.

(2) It shall be unlawful for any person to publicly practice, or offer to publicly practice geology in this state, as defined in the provisions of this Act, or to use in connection with the person's name or otherwise assume, or advertise any title or description tending to convey the impression that the person is a registered geologist, unless such person has been duly registered under the provisions of this Act. The right to engage in the practice of geology shall be deemed a personal right, based on the qualifications of the individual as evidenced by the certificate of registration, and shall not be transferable.

(3) After July 1, 1985, except as provided by this Act, it shall be unlawful for anyone other than a geologist registered under this chapter to publicly practice geology, to stamp, seal or certify any plans, maps, reports or other documents with the seal or stamp of a registered geologist, or to use in any manner the title "registered geologist" unless registered.

(4) It shall be unlawful for any person to affix his signature or to stamp, seal, or certify any plans, maps, reports, or other documents after the certificate of registration of the registrant named thereon has expired or has been suspended or revoked, unless the certificate of registration has been renewed or reissued.

SECTION 10. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

The board shall have the power to suspend, refuse to renew, or revoke the certificate of any registrant, to reprimand any registrant, or to place any registrant on probation, who is found guilty by the board of:

(1) The practice of fraud or deceit in obtaining a license;

(2) Any gross negligence, incompetence or misconduct in the practice of geology;

(3) Having been convicted by a court of law of a felony or a crime involving moral turpitude;

(4) Violation of the code of ethics which has been adopted by the board; or

(5) The commission of any unlawful act as set forth in this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 328 IS CREATED TO READ AS FOLLOWS:

Any person who commits any of the following acts shall be guilty of a class B misdemeanor:

(1) Publicly practices, or offers to publicly practice geology for others in this state without being registered in accordance with the provisions of this Act;

(2) Presents or attempts to use as his own the certificate of registration or the seal of another;

(3) Gives any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration;

(4) Falsely impersonates any other registrant of like or different name;

(5) Attempts to use an expired or revoked certificate of registration of practice at any time during a period the board has suspended or revoked the certificate of registration; or

(6) Violates any of the provisions of this Act or regulations issued under its authority.

SECTION 12. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

No person defined and authorized by statute to act as, operate as, a business, occupation, or *profession can be prosecuted for, or enjoined from, performing acts included in, and encompassed by, the definition of his business, occupation, or profession, even when those acts are included in the definition of another business, occupation or profession. The definition of, and the statutes regarding, each business, occupation, or profession shall be the sole factor in determining the acts allowed by each business, occupation or profession regardless of whether the definition is in the same or in a separate chapter of the Kentucky Revised Statutes.*

SB 215, AN ACT relating to licensing of barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.450 is amended to read as follows:
(1) The barber board shall issue a license to practice barbering to any person who:
(a) Is at least eighteen (18) years of age;
(b) Is of good moral character and temperate habit;
(c) Has acted as a licensed apprentice for at least eighteen (18) months under the immediate supervision of a licensed barber;
(d) Has satisfactorily passed the examination prescribed by the barber board;
(e) Has paid a fee of *thirty dollars ($30)* [~~twenty dollars ($20.00)~~].
(f) The board may reciprocate with other states and issue a barber license upon payment of a fee of fifty dollars ($50.00) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. The board may require an applicant under this section to pass an examination to establish equivalency.
(2) The barber board shall issue a license to act as apprentice to a barber to any person who:
(a) Is at least sixteen and one-half (16 1/2) years of age;
(b) Is of good moral character and temperate habit;
(c) Has at least four (4) years of high school education;
(d) Has graduated from an accredited or licensed school of barbering;
(e) Has satisfactorily passed the examination prescribed by the barber board; and
(f) Has paid a fee of *thirty dollars ($30)* [~~twenty dollars ($20.00)~~].
(3) The barber board shall issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application of such barber accompanied by a fee of *thirty dollars ($30)* [~~twenty dollars ($20.00)~~] provided that the barber board shall refuse to issue such a license upon a failure to comply with the provisions of this chapter or the rules and regulations of the board adopted pursuant thereto.
(4) The barber board shall issue a license to operate a school of barbering to any person, firm or corporation who or which:
(a) Applies therefor upon forms furnished by the board;
(b) Has the equipment and facilities which may be required by rules and regulations of the board adopted pursuant to this chapter;
(c) Furnished any evidence deemed necessary by the board in the exercise of a sound discretion that it is the purpose of the applicant to establish a bona fide school for the education and training of competent barbers and can and will employ a sufficient number of licensed teachers of barbering to conduct such school;
(d) Has furnished evidence of having at least twenty-four (24) months experience teaching in a barber school including administrative experience in such school;
(e) Pays a fee of one hundred *fifty* dollars *($150)*[~~($100)~~].
(5) The barber board shall issue a license to teach barbering to any person who:
(a) Is of good moral character and temperate habit;
(b) Has a high school education;
(c) Has been a licensed and practicing barber for at least thirty-six (36) months;
(d) Has satisfactorily passed the examination prescribed by the board; and
(e) Has paid a fee of *fifty dollars ($50)* [~~twenty-five dollars ($25.00)~~].
(6) Applications for examination required in this section shall be accompanied by an examining fee as follows:
(a) Barber -- $20.00;
(b) Apprentice to a barber -- $20.00;
(c) Teaching barbering -- *$75.00*[~~$25.00~~].
(7) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance but the board shall renew any license so expiring at no increased renewal fee if the required annual renewal license fee is paid within thirty-one (31) days after the expiration of such license, provided that the applicant for a renewal is otherwise in compliance with this chapter and the rules and regulations of the

board adopted pursuant thereto. Any license shall automatically be renewed by the board upon receipt of the required annual license fee prior to the expiration date of such license, provided the applicant for renewal is in compliance with the provisions of this chapter and the rules and regulations of the board adopted pursuant thereto.

(8) The annual renewal license fee for each type of license renewal shall be as follows:
(a) Barber -- *$30.00*[~~$20.00~~];
(b) Apprentice to barber -- *$30.00*[~~$20.00~~];
(c) Teacher of barbering -- *$30.00*[~~$20.00~~];
(d) Barber shop -- *$30.00*[~~$20.00~~];
(e) Barber school -- *$100.00*[~~$75.00~~].

(9) Except as provided in subsection (7) of this section, the fee for the renewal of an expired license, where the period of expiration does not exceed five (5) years, shall be as follows:
(a) Barber -- $15.00 plus lapse fees;
(b) Apprentice -- $15.00 plus lapse fees;
(c) Barber shop -- *$40.00*[~~$20.00~~];
(d) Barber school -- *$100.00*[~~$75.00~~];
(e) Teacher of barbering -- $15.00 plus lapse fees.

The Committee on Education reported **HB 564, HB 591** with Committee Amendment attached thereto, **HB 592** and Committee Amendment No. 1, **HB 607** with Committee Substitute attached thereto, **HB 618** with Committee Substitute attached thereto, **HB 746** with Committee Amendment attached thereto, **HB 769, HB 771** with Committee Amendment attached thereto, **SB 226,** and **SB 230** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 564, AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

The holder of any type of Kentucky teacher certification issued by the state board of education may voluntarily, at the holder's option, have any certificate, certificate endorsement or subject specialization deleted from the official certification record upon application, subject to the following provisions:

(1) The application shall be submitted to the state board of education on a form furnished by the board. The form shall include the information required by this section and the applicant shall verify the information by affidavit. The application must be submitted between September 1 and December 1 and shall become effective on the following July 1. If the requirements of this section are satisfied, the state board of education shall notify the applicant and the applicant's employing school or school district on or before February 1 following submission of the application, that the decertification has been approved.

(2) If the certification for classroom teaching at the secondary level is to be retained, at least one (1) teaching major or one (1) area of concentration must be retained.

(3) A certificate which is a prerequisite or a concurrent requirement to the issuance of another certificate or certificate endorsement held by the applicant must be retained.

(4) Applications for restoration of areas of certification deleted under this section shall be submitted to the state board of education showing restored competency and proficiency by completion of twelve (12) semester hours of credit pertinent to the deleted areas as prescribed by an institution approved for teacher education. A transcript or other appropriate verification of completion of the twelve (12) semester hours of credit from the institution approved for teacher education shall be accepted as evidence showing restoration of competency and proficiency in the areas of certification.

HB 591, AN ACT relating to group insurance for local boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.158 is amended to read as follows:

(1) Each district board of education may form its employes into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance or

any group insurance plans to aid its employes, as long as the employes continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employes. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employes that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits.

(2) (a) Each district board of education which forms its employes into a group for insurance purposes separate from the state master contract as described in subsection (1) of this section shall notify the department of education of its intention to form a separate group. The department of education shall reimburse the local district for health insurance or life insurance or both in an amount equal to the state's premium contribution under the current state master contract or the premium cost for single coverage under the local board of education's contract, whichever is less, for each eligible certified and non-certified employe of the local board. For purposes of this section eligible certified and non-certified employes are defined as:

1. A regular, full-time non-certified employe is one who is employed with the expectation of employment for the full school term or the remainder of the school term as defined in KRS 158.070, and whose assignments require a minimum of eighty (80) hours per school month as defined in KRS 158.060; and

2. A regular, full-time certified employe is one who is employed with the expectation that they are to perform their duties for the full school term or the remainder of the school term as defined in KRS 158.070 but in no instance will such employment require less than seventy percent (70%) of the school day or school month as defined in KRS 158.060;

(b) Local boards of education forming their own group shall notify the department of education of this decision by February 1, 1985 and shall be eligible for reimbursement for insurance premiums beginning October 1, 1985. Thereafter a local board of education must notify the department of education of its intention to form a separate group nine (9) months prior to the expiration of the master contract between the Commonwealth and the current carrier, to become effective upon expiration of the master contract.

(3) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employes or groups of employes whenever a request is presented to the board by said employes or groups thereof. Such deductions shall be made from salaries earned in at least eight different pay periods, and shall be remitted to the appropriate organization or association as specified by the employes. The deductions may be made for, but are not limited to, membership dues, tax sheltered annuities and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one remittance, of amounts deducted during a pay period, for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, said board shall bear no further responsibility or liability for subsequent transaction.

(4)[~~(3)~~] Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools; and the payments and deductions do not affect the eligibility of any school system to participate in the foundation program as established in KRS chapter 157.

The Committee Amendment No. 1 to **HB 591** is as follows:

Amend printed copy of **HB 591**, page 3, line 7, by adding the following after the word "contract.":

"*A district board of education opting to separate from the state master contract as set out in this Act shall provide a policy with coverage at least equal to the coverage provided by the state contract.*:

HB 592, AN ACT relating to suspension of teaching contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.800 is amended to read as follows:

(1) When by reason of decreased enrollment of pupils, [~~or by reason of suspension of schools or~~] territorial changes affecting the *school* district *or by reason of other causes not related to teacher performance*, a board of education decides that it will be necessary to reduce the number of teachers, it shall have full authority to make reasonable reduction. But, in making such reduction, the board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall[~~, within each teaching field affected,~~] give preference to teachers [~~on continuing contracts and to teachers~~] who have greater seniority *and who shall permit teachers affected to displace those with lesser seniority if the teacher affected is certified under KRS 161.020 to 161.120 to teach or serve in a position held by a teacher with lesser*

seniority. Such recommendation procedure shall require the contracts of teachers with least seniority to be suspended except in cases where a teacher does not hold certification permitting displacement of a teacher with lesser seniority.

(2) (a) Teachers whose [~~continuing~~] contracts are suspended shall have the right of restoration *to the contract status held prior to suspension* [~~in continuing service status~~] in the order of *greatest* seniority [~~of service in the district~~] if and when teaching positions become vacant or are created for which any of such teachers *hold certification at the time of such restoration* [~~are or become qualified~~].

(b) Notice of restoration of contract from suspended status shall be served upon the affected teacher by mail, with return receipt requested, at the teacher's address on file in the school district office. Verification of the teacher's mailing address for correctness and changes in address during the period of suspension shall be the responsibility of the teacher.

(c) The teacher shall have twenty (20) calendar days from receipt of the notice of restoration of contract status to notify the school district that he intends to return to the teaching position. If the teacher fails to notify the school district within twenty (20) calendar days or if the teacher advises in writing that he will not return to the teaching position, the contract of the teacher shall terminate.

(3) In cases where the seniority of teachers is equal, the board of education shall adopt a tie breaking procedure which will give each teacher a position on the school district seniority list. The tie breaking procedure shall be objective and shall not take into consideration the factors of age, sex, race, residence, test scores, evaluations or the alphabet.

(4) A current seniority list shall be maintained by each school district. The seniority list is a public record according to the provisions of KRS 61.870 to 61.884, and shall not be excluded from inspection under KRS 61.878. The seniority list shall contain the name, areas of certification, and ranking by seniority for each teacher plus the same information for teachers whose contracts have been suspended.

Section 2. KRS 161.810 is amended to read as follows:

If an entire school district or [~~that~~] part of a school district [~~which comprises the territory in which a school or schools are situated~~] is *merged or consolidated with* [~~transferred to~~] any other district, [~~or if the schools in an independent or county school district are consolidated or centralized,~~] the teachers in such *merged or* consolidated *districts shall hold the same contract status as they held immediately prior to merger or consolidation* [~~or centralized schools employed on continuing contracts immediately prior to such transfer, consolidation, or centralization shall, subject to the limitations imposed by KRS 161.800, have continuing service status in the newly centralized or consolidated school, or in the district to which the territory is transferred~~]. *Teachers employed in the affected school districts immediately prior to merger or consolidation shall be employes of the school district formed by the consolidation or merger and the seniority lists of each former district shall be combined. If it is necessary to suspend teaching contracts in the newly formed school district, the procedures set forth in KRS 161.800 shall be followed.*

The Committee Amendment No. 1 to **HB 592** is as follows:

Amend printed copy of **HB 592,** page 2, after line 16, by deleting all material on lines 17 through 24.

On page 3, line 3, by inserting a period after the word "*objective*" and deleting all new material following the period on lines 3, 4, and 5.

HB 607, AN ACT relating to vocational education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for kindergarten, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) (a) In allotting classroom units for elementary and secondary schools, one (1) classroom unit shall be included for each twenty-seven (27) pupils in average daily attendance in grades one (1) through twelve (12); provided, however, that one (1) classroom unit shall be included for each isolated one-teacher school with twelve (12) or more pupils in average daily attendance and one (1) unit shall be included for each twenty-five (25) pupils in average daily attendance at all other isolated schools. The allotments of classroom

units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions:

1. An average daily attendance of six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 shall be deducted for each vocational unit allotted; and

2. An average daily attendance of five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 shall be deducted for each exceptional children's unit allotted.

(b) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(c) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 through 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of KRS 157.360(1), teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(3) Allotments of classroom units except those allotted in accordance with subsection (4) of this section, shall be increased when the average daily attendance in grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase.

(4) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (3) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(5) *(a)* In allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Classroom units for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agricultural experience programs; group and individual construction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience.

(6) (a) In allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor. In addition to the classroom units allotted above, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390(6), a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for 185 days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit.

(b) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above cited program to those funds appropriated for this purpose in each biennial budget.

(7) (a) In allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (10) and (12) plus subsections (5) and (6) before July 1,

1976 shall be divided by eight (8) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(b) The total number of units allotted under subsection (5) beyond those allotted in the school year 1975-76 times six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 average daily attendance plus the total number of units allotted under subsection (6) beyond those allotted in the school year 1975-76 times five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 average daily attendance shall be divided by two hundred and sixteen (216) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(c) The total of *paragraph* [~~subsection~~] (a) plus *paragraph* [~~subsection~~] (b) *of this subsection* shall be the number of classroom units allotted the district for administrative and special instructional services as authorized by Kentucky administrative regulations of the state board of education.

(8) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (5), (6), (10) and (12); one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(9) In allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2). For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(10) In allotting classroom units for kindergarten, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for kindergarten. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(11) In allotting classroom units for superintendent, one unit shall be allotted each school district.

(12) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

The Committee Substitute to **HB 607** is as follows:

HB 607, AN ACT relating to vocational education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for kindergarten, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) (a) In allotting classroom units for elementary and secondary schools, one (1) classroom unit shall be included for each twenty-seven (27) pupils in average daily attendance in grades one (1) through twelve (12); provided, however, that one (1) classroom unit shall be included for each isolated one-teacher school with twelve (12) or more pupils in average daily attendance and one (1) unit shall be included for each twenty-five (25) pupils in average daily attendance at all other isolated schools. The allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions:

1. An average daily attendance of six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 shall be deducted for each vocational unit allotted; and
2. An average daily attendance of five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 shall be deducted for each exceptional children's unit allotted.

(b) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(c) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 through 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of KRS 157.360(1), teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(3) Allotments of classroom units except those allotted in accordance with subsection (4) of this section, shall be increased when the average daily attendance in grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase.

(4) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (3) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(5) *(a)* In allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Classroom units shall be allotted on the basis of twelve (12) months employment for teachers in programs of vocational agriculture which provide for planned supervision of the following:

1. High school student, young farmer, and adult farmer programs;

2. Recordkeeping by all students;

3. Student leadership development activities;

4. Planning, implementation, and evaluation of county fair activities;

5. Follow-up class meetings and demonstrations for high school students, young farmers, and adult farmers; placement and follow-up of program completers; and

6. Provide for participation of agricultural teachers in up to five (5) days department of education approved inservice training.

The department of education shall develop guidelines and procedures for planning, approval, and evaluation of the summer program.

(6) (a) In allotting classroom units for exceptional children, one (1) classroom unit shall be included upon the employment of each teacher approved to teach such children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor. In addition to the classroom units allotted above, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390(6), a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for 185 days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit.

(b) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above cited program to those funds appropriated for this purpose in each biennial budget.

(7) (a) In allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (10) and (12) plus subsections (5) and (6) before July 1, 1976 shall be divided by eight (8) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(b) The total number of units allotted under subsection (5) beyond those allotted in the school year 1975-76 times six and nine-tenths (6.9) in 1978-79 and eight and four-tenths (8.4) in 1979-80 average daily attendance plus the total number of units allotted under subsection (6) beyond those allotted in the school year 1975-76 times five and one-tenth (5.1) in 1978-79 and six and three-tenths (6.3) in 1979-80 average daily attendance shall be divided by two hundred and sixteen (216) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(c) The total of subsection (a) plus subsection (b) shall be the number of classroom units allotted the district for administrative and special instructional services as authorized by Kentucky administrative regulations of the state board of education.

(8) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (5), (6), (10) and (12); one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(9) In allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred and sixty-five and nine-tenths (165.9) classroom units under subsection (2) and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2). For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(10) In allotting classroom units for kindergarten, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for kindergarten. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(11) In allotting classroom units for superintendent, one unit shall be allotted each school district.

(12) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

HB 618, AN ACT relating to athletic eligibility.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary course of study, he is entitled to a certificate of completion signed by the teacher or teachers under whom the course was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) No student enrolled in grades one (1) through eight (8) shall be eligible to participate in interscholastic athletics the second year the student is enrolled in the same grade.

(3) A student who repeats one (1) or more elementary grades, grades one (1) through eight (8), shall be eligible to participate in high school interscholastic athletics for only the first six (6) semesters of high school.

(4) Any team playing an ineligible player, pursuant to subsection (3) of this section, shall be suspended for the remainder of that season. The suspension shall apply to the team on which the ineligible player was a member and shall not apply to other teams at that school.

The Committee Substitute to **HB 618** is as follows:

HB 618, AN ACT relating to athletic eligibility.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) No student enrolled in grades seven (7) through twelve (12) shall be eligible to participate in interscholastic athletics the second year the student is enrolled in the same grade.

(2) A student who repeats any grade seven (7) through twelve (12) shall be eligible to participate in high school interscholastic athletics for only the first six (6) semesters of grades nine (9) through twelve (12).

(3) Any team playing a player who is ineligible pursuant to this section shall not be eligible for tournament play that school year. Such ineligibility shall apply to the team on which the ineligible player is a member and shall not apply to other teams at that school.

(4) The provisions of this section shall not apply to a student who has repeated a grade prior to the effective date of this Act, or when extended absence from school due to accident or illness, as documented by a physician, requires the student to repeat a grade.

HB 746, AN ACT relating to superintendents of public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.350 is amended to read as follows:

Each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of *no more than* [~~one (1), two (2), three (3) or~~] four (4) years. *In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. The board may thereafter appoint a superintendent for a new term as provided herein and such term shall begin as of the date of the superintendent's appointment. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term.* The board shall fix the salary of the superintendent at not less than $1,200 per annum, to be paid in monthly instalments. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. Before any superintendent assumes his duties he shall present to the board of education that elected him a statement signed by the superintendent of public instruction that he has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been elected, and he shall hold such certificate throughout the period of his employment. A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education. Written notice setting out the charges for removal shall be spread on the minutes of the board and given the superintendent fifteen (15) days before action is taken on his removal.

The Committee Amendment No. 1 to **HB 746** is as follows:

Amend printed copy of **HB 746,** page 1, line 13, after the word "appointment" by inserting the following:

"*, except when the vacancy occurs during the time between a school board election and when the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months*"

HB 769, AN ACT relating to the department of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.010 is amended to read as follows:

(1) The department of education shall consist of the superintendent of public instruction, who shall be the executive officer of the department, the bureau of instruction, the bureau of education for exceptional children, the bureau of administration and finance for local school districts, the bureau of vocational education, the bureau of *vocational* rehabilitation [~~services~~], and the state board of education.

(2) The superintendent of public instruction shall appoint a deputy superintendent of public instruction who is authorized to act in the absence of the superintendent of public instruction.

(3) The superintendent of public instruction shall have general supervision of all assistants, agents and employes. He shall be responsible for implementing policies promulgated by the state board of education. He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

(4) All employes shall be reimbursed for necessary traveling expenses incurred in the performance of

their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries.

(5) The department of education shall exercise all the administrative functions of the state in relation to the management and control of the public common schools, vocational education, vocational rehabilitation, the Kentucky school for the blind and the Kentucky school for the deaf, and may exercise the general powers and functions relating to state vocational schools and area vocational educational centers for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed. The department of education shall exercise also those powers relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

(6) The Kentucky school for the blind advisory board, the Kentucky school for the deaf advisory board and the state textbook commission are included in the department of education and constitute divisions thereof, but each shall continue to exercise all the functions conferred upon it by law.

(7) The state department of education in the operation and management of its schools and the programs at these schools shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the state department of education.

(8) The department of education is hereby designated as the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education, vocational education, *vocational* rehabilitation [~~services~~] and adult education.

HB 771, AN ACT relating to the state vocational rehabilitation agency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.110 is amended to read as follows:

In enacting KRS 163.110 to 163.180 it is the intention of the general assembly of Kentucky to provide for and improve the *vocational* rehabilitation of [~~the physically and mentally handicapped~~] citizens of the Commonwealth of Kentucky *with physical and mental handicaps* in order that they may increase their social and economic well-being and the productive capacity of the Commonwealth and nation.

Section 2. KRS 163.120 is amended to read as follows:

The superintendent of public instruction is hereby authorized to establish within the department of education a state *vocational* rehabilitation agency. This agency shall have such powers and duties as contained in KRS 163.110 to 163.180 and such other functions as may be established by regulation of the state board for occupational education.

Section 3. KRS 163.130 is amended to read as follows:

Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any [~~handicapped~~] individual *with a physical or mental handicap:*

(1) Who *maintains a domicile in* [~~is a citizen of~~] the Commonwealth at the time of filing his application therefor, and whose *vocational* rehabilitation the state *vocational* rehabilitation agency determines after full investigation can be satisfactorily achieved*;*[~~,~~] or

(2) Who is eligible therefor under the terms of an agreement with another state or with the federal government.

Section 4. KRS 163.140 is amended to read as follows:

The state board *of* [~~for occupational~~] education, upon recommendation of the superintendent of public instruction, shall prescribe rules and regulations governing the services, personnel, and administration of the state *vocational* rehabilitation agency*;* [~~and~~] may enter into reciprocal agreements with other states to provide for the *vocational* rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to KRS 163.110 to 163.180 to be conducted by *eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency* [~~severely handicapped persons~~].

Section 5. KRS 163.160 is amended to read as follows:

This state accepts and agrees to comply with all the provisions of the acts of congress of the United States approved June 2, 1920 (41 stat. 735) relating to *vocational* rehabilitation and all subsequent acts pertaining to *state and federal vocational* rehabilitation *programs* enacted prior to January 1, *1984, when such acts apply to joint state and federally funded vocational rehabilitation programs* [~~1980~~]. The governor of the Commonwealth may, by executive order, accept such acts of congress enacted subsequent to January 1, *1984* [~~1980~~], as may be deemed desirable and necessary.

Section 6. KRS 163.170 is amended to read as follows:

The state treasurer is hereby designated as the custodian of all funds. The state treasurer shall make disbursements for *vocational* rehabilitation purposes upon certification by the superintendent of public instruction.

The Committee Amendment to **HB 771** is as follows:

Amend printed copy of **HB 771,** page 3, lines 11 and 15, by striking through and placing brackets around the word "January" and inserting the word "*March*"

SB 226, AN ACT relating to the certification of non-teaching personnel and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the state board of education. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board of education [~~through the superintendent of public instruction~~].

(2) In the case of nontax supported schools, standards for teacher certification shall provide for the certification without further educational requirements[~~,~~] of any administrator, supervisor, or teacher who has *earned* [~~attended, and received~~] a bachelor's degree from[~~,~~] a standard college or university.

(3) Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board of education for the preparation of teachers and other school personnel, the curricula prescribed by the Kentucky council on teacher education and certification and approved by the state board of education for the certificates.

(4) *Effective January 1, 1985, initial certification of all new principals, assistant principals, supervisors of instruction, guidance counselors, and directors of special education shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the state board of education and shall measure knowledge in the specific certification area of the applicant. The state board of education shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in the preparation programs for the respective certification areas in Kentucky. Upon successful completion of the tests and the approved preparation program, a certificate valid for one (1) year shall be issued.*

(5) A reasonable fee to be paid by the applicant and directly related to the actual cost of the administration of the test shall be established by the state board of education. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The department of education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new principals, assistant principals, supervisors of instruction, guidance counselors, and directors of special education.

(6) Effective July 1, 1985, all principals, assistant principals, instructional supervisors, guidance counselors, and directors of special education being employed for such a position for the first time in Kentucky and holding a certificate issued pursuant to subsection (4) of this section shall serve a one-year internship. Persons employed from out of state with less than two (2) years successful experience in the same type of position shall successfully complete the requirements of subsection (4) of this section and the internship. The intern shall be a full-time employe with supervision, assistance, and assessment during the one-year internship. Successful completion shall be determined by a majority vote of the beginning intern committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility and benefits for single salary experience increments. Upon successful completion of the beginning intern program the one-year certificate shall be extended for the remainder of the usual duration period established for that particular certificate by state board of education regulations.

(7) The intern committee shall be composed of three (3) persons who have received special training in the supervision and assessment of the performance of beginning interns as provided in subsection (9) of this section. The intern committee shall consist of the intern's immediate supervisor, a person currently employed in the same position as the intern, and an educator of the certification area of the intern from a state-approved teacher training institution to be appointed by the president of that institution. In the event

that either member is not available, the local school superintendent shall choose a person for the specific team position from a list of trained evaluators maintained by the state department of education.

(8) The intern committee shall work with the intern to develop a performance and evaluation plan for the internship. The plan shall include, but not be limited to the establishment of professional goals and the involvement of a minimum of seven (7) days in an intensive professional development and leadership program approved by the state board of education. The intern committee member currently employed in the same position as the intern shall spend a minimum of ten (10) days working with the intern in such activities as developing improvement plans; planning and evaluating curriculum; evaluating personnel performance; counseling with teachers, parents and students; working with the community; and designing professional improvement activities for staff. The other two (2) intern committee members shall spend a minimum of three (3) days observing, consulting and evaluating the intern. If the intern's first year performance is judged by the committee to be less than satisfactory, the intern shall be provided with an opportunity to repeat the internship one (1) time, if the intern is employed by a school district.

(9) The state board of education shall prescribe specific criteria for the training of the intern committee members and may contract for the training of the committee members with qualified agencies or institutions.

(10) The state board of education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the state board of education and are equivalent to [~~any or all~~] the curricula prescribed for the state institutions for the issuance of certificates [~~to students of the state institutions,~~] and when the institution has [~~otherwise~~] met the terms and conditions provided in KRS 161.010 to 161.120. Any student [~~of such institution~~]) who has completed any of these curricula or the equivalent thereof, as approved by the state board of education, and who [~~in addition thereto~~] has completed the prescribed requirements for the issuance of certificates for teaching to students of the state institutions may[~~, by the state board of education,~~] be granted a certificate for teaching of the same validity and tenure as certificates issued to students completing like requirements in the state institutions.

Section 2. To carry out the purposes of this Act, there is appropriated to the department of education out of the General Fund in the State Treasury the sum of $37,000 for the 1984-85 fiscal year and $128,000 for the 1985-86 fiscal year.

SB 230, AN ACT relating to adjunct instructors for the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "adjunct instructor" means an individual who has training or experience in a subject area where there is a critical teacher shortage on a statewide or local district basis and who has met the requirements for certification as an adjunct instructor established by the state board of education.

(2) By September 1, 1984 the state board of education shall establish regulations governing the qualifications and utilization of adjunct instructors. These regulations shall specify the minimum essential competencies which must be demonstrated by persons seeking an adjunct instructor certificate and may establish and require competency tests if deemed necessary.

(3) Holders of an adjunct instructor certificate shall be employed on an annual contract basis and shall not be eligible for continuing service status pursuant to KRS 161.740 or for the retirement provisions of KRS 161.220 through 161.714. The granting of successive annual contracts to the holder of an adjunct instructor certificate shall not give rise to a claim of expectation of continuing employment.

(4) Local school boards may contract with such certificated adjunct instructors for part-time services on an hourly, daily or other periodic basis as best meets the needs of the board. An adjunct instructor shall not fill a position for which a qualified teacher with a regular certificate is available at the time of the signing of the contract. An orientation program shall be developed and implemented for adjunct instructors by the local school board.

The Committee Amendment No. 1 to **SB 230** is as follows:

Amend printed copy of **SB 230,** page 1, line 14, by deleting "*may*" and inserting "*shall*" in lieu thereof.

The Committee on Energy reported **HB 221** with Committee Substitute attached thereto, **HB 777** with

Committee Amendment attached thereto, **SB 101** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 221, AN ACT relating to the public service commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The public service commission shall provide a central clearinghouse of information on utility matters for all citizens of the Commonwealth. The commission shall collect and compile consumer complaints and inquiries, and maintain records of the final disposition or resolution of any complaint received. The commission shall use every means at its disposal to actually resolve any complaint received by providing information, investigation, mediation and referral services to customers where needed, and other appropriate means.

(2) The commission may refer a complaint to the utility being complained of, or to another government agency if appropriate, but it shall be the responsibility of the commission to record the disposition of any such complaint after referral.

(3) Whenever the commission is unable to resolve a complaint to the satisfaction of the complainant, the commission shall inform the complainant of other means of remedy available to him, including his right to a hearing on the matter before the public service commissioners.

(4) The commission shall maintain records of every complaint received, which records shall include the name and address of the complainant, the name of the utility complained of, the type or substance of the complaint, and steps taken in the disposition of the complaint, together with any other information deemed useful or desirable. Each month a cumulative report shall be presented to the commissioners of all unresolved complaints and of complaints resolved during the preceding month. Annually the commission shall report to the governor and the general assembly, the number and type of complaints received, their disposition, and other information deemed to be of interest.

(5) A complaint shall be recorded as resolved or disposed of only after the complainant has been notified and agrees to the classification.

(6) Whenever the commission staff finds that a complaint or group of similar complaints raises an issue which merits a decision by the commission, such as a need to clarify commission rules or an apparent persistent violation of commission standards by a utility, then the staff shall report the complaint or complaints to the commissioners together with an analysis of the issue which is deemed to merit a decision by the commission.

The Committee Substitute to **HB 221** is identical to the original of **HB 221**, except for the addition of the following subsection (7) of Section 1:

"(7) The commission shall maintain and publicize a toll-free telephone number so that any utility customer in Kentucky can contact the commission offices during regular office hours to register a complaint or obtain information concerning utility matters without incurring a toll charge for the call."

HB 777, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation, *provided that this chapter shall not apply to cellular radio-telephone services that may be authorized by the federal communications commission under title 47, section 22.900 et seq. of the code of federal regulations*; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;

(4) "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(13) "Commission" means the public service commission of Kentucky;

(14) "Commissioner" means one (1) of the members of the commission.

The Committee Amendment No. 1 to **HB 777** is as follows:

Amend printed copy of **HB 777**, page 4, after line 18, by adding the following:

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

The exemption of cellular radio-telephone services under Section 1 of this Act shall expire on the first day of January next following the date on which subscribers to all cellular radio-telephone carriers in the Commonwealth of Kentucky shall, in total, equal or exceed three percent (3%) of the population. Each cellular carrier shall file with the Office of the Attorney General a semi-annual statement of the number of subscribers, by county, receiving cellular service.

SB 101, AN ACT relating to emergency telephone service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act, "911 emergency telephone service" means a telephone service which provides the user of the public telephone system the ability to reach local emergency service agencies on a twenty-four (24) hour basis, by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Every telephone company within the Commonwealth shall reserve the initial digits 9-1-1 for use as an emergency telephone number. The company shall assign this number within an exchange only to a public body or other applicant for the establishment of 911 emergency telephone service.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any city, county, or urban-county government may establish 911 emergency telephone service upon approval of the governing body of the city, county or urban-county government, and may adopt regulations concerning the provision of this service by ordinance.

(2) Any city, county, or urban-county government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency telephone service.

(3) The funds required by a city, county, or urban-county government to establish and operate 911 emergency telephone service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the constitution and statutes of this state. All revenues from a tax or fee expressly levied to fund 911 emergency services shall be expended solely for this purpose. The governing body may apply for and accept federal monies, and may accept contributions and donations from any source for the purpose of funding 911 emergency telephone service.

(4) Nothing in this section shall preclude other means of establishing or funding a 911 emergency telephone service within any local area or exchange, nor require the operation of such service by any local government.

The Committee on Judiciary-Criminal reported **SB 20**, with Committee Substitute attached thereto, and **SB 141**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 20, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a motor vehicle anywhere in this state while under the influence of alcohol or any other substance which impairs one's driving ability.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than two (2) days nor more than thirty (30) days in lieu of fine or imprisonment, or both, provided that his offense does not come within the purview of subsection (4) of this section.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) For a third or subsequent offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.

(3) Minimum sentences of imprisonment or community labor under subsections (2)(b) and (2)(c) of this section shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(4) When sentencing persons convicted of violating subsection (2)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release. If a person other than the person convicted of violating Section 1 of this Act dies or has suffered physical injury, as defined in KRS 500.080, as a result of the convicted person's operation of a motor vehicle in violation of Section 1 of this Act, the sentence shall include imprisonment as specified in subsection (2)(a) and that portion of the sentence shall not be suspended, probated, or subject to conditional discharge or other form of early release.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Before sentencing a person convicted of violating Section 1 of this Act the court shall hold a presentence hearing, without the participation of the jury, at which it shall:

(a) Consider the past driving record of the defendant in Kentucky and, where feasible, in other United States jurisdictions where reciprocity on driving records exists;

(b) Consider the drinking or drug dependency or abuse status of the defendant and any reports thereon;

(c) Consider the recommendations of the prosecution and the defense with regard to the defendant's offense and his alcohol or drug abuse status.

(2) The court shall enter its findings with regard to each of the above considerations in the record of the case.

(3) The court, before sentencing, may require the defendant to undergo such testing and evaluation as it deems necessary, but in doing so, the court shall use existing treatment or evaluation agencies for such testing and evaluation. Costs of the evaluation and testing ordered pursuant to this section shall be paid by the defendant to the extent of his ability to pay. Costs shall not exceed the actual cost of testing and evaluation.

(4) No court shall waive this presentence procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

All community labor shall be under the supervision of the court and subject to the following:

(1) (a) No period of labor shall be less than four (4) hours to qualify for satisfaction of a sentence;

(b) A "day" shall mean eight (8) hours of labor;

(c) A "month" shall mean twenty (20) days of labor;

(d) Periods of labor four (4) hours or longer may be cumulated to meet the requirements under this Act;

(2) Labor shall be done for public agencies, nonprofit corporations or eleemosynary institutions only;

(3) Any agency for whom a person works shall agree to supervise such person and report to the court:

(a) The hours worked,

(b) The quality of the work,

(c) The nature of the work;

(4) An agency may refuse to accept persons under this program or to accept any particular person or persons sent by the court;

(5) The court shall maintain a list of agencies willing to accept and supervise persons sentenced under this program;

(6) The court may contract, at no cost to the state or participant, with any public agency or nonprofit corporation or eleemosynary institution for the supervision of persons in the program;

(7) No work performed under this program shall be deemed employment for any purpose nor shall the person performing such work be considered an employe;

(8) Failure to complete the community labor ordered by the court, to perform diligently at that labor, or to pay the fee required shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the community labor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Terms of imprisonment for first and second offenders under Section 1 of this Act shall, at the order of the court, be served on weekends or such other times as may preserve the employment or education of the offender, provided that no individual period of incarceration shall be less than twenty-four (24) hours.

(2) Terms of imprisonment for persons under the age of eighteen (18) shall be served in a location meeting the criteria of KRS Chapter 208.

SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other penalty prescribed by law for violation of Section 1 of this Act, the court, after the presentence investigation, may sentence the person to an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

(a) The sentence shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may, upon written recommendation to the court by the administrator of the program, be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(2) In addition to any other penalty prescribed by law for violation of Section 1 of this Act the court, after presentence investigation, shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may, upon written recommendation to the court by the administrator of the program, be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by law for a violation of Section 1 of this Act the court, after presentence investigation, shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender.

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems. The program may be an inpatient or residential type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by Section 6 of this Act, or from state or federal funds or any combination thereof shall be deducted from the amount which the defendant must pay.

SECTION 6. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Upon arrest of a person for violation of Section 1 of this Act, and on motion of the attorney representing the Commonwealth, the court may, following a hearing, suspend the arrested person's driving license until final disposition of the case if the court finds that there is probable cause to believe that the person arrested violated Section 1 of this Act and any of the following aggravated circumstances:

(a) The prior driving history of the arrested person indicates prior traffic violations including but not limited to driving under the influence of intoxicating beverages or impairing chemicals or other traffic offenses demonstrating a lack of regard for the safety of others; or

(b) The violation of Section 1 of this Act resulted in an accident involving physical injury to a person other than the defendant.

(2) After a license has been suspended for fourteen (14) days the court shall, on motion of the defendant, review the status of the suspension and the continuing necessity therefor and may continue the suspension or restore the defendant's license.

(3) In no event shall a license suspension prior to trial exceed sixty (60) days regardless of whether the trial has not yet taken place.

(4) License suspensions pursuant to this section shall be administered by the court, with notification within fifteen (15) days to the transportation cabinet of the suspension and actions taken thereon.

(5) Any person whose operator's license has been suspended by the court pursuant to this section shall be given credit toward his suspension for the period of time prior to final disposition for which his license was suspended.

SECTION 7. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in Section 1 of this Act, a person convicted of violation of Section 1 shall have his license to operate a motor vehicle or motorcycle revoked as follows:

(a) For the first offense, six (6) months, unless the person enrolls in the driver improvement program

specified by the transportation cabinet pursuant to KRS 186.560, in which case the suspension shall be for thirty (30) days. If the person fails to successfully complete the driver improvement program then the court shall order the license suspended for six (6) months;

(b) For the second offense, twelve (12) months;

(c) For a third or subsequent offense, twenty-four (24) months.

(2) A person under the age of eighteen (18) who is convicted of violation of Section 1 of this Act shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) whichever penalty will result in the longer period of revocation.

(3) Licenses revoked pursuant to this Act shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the transportation cabinet. No court shall waive or stay this procedure.

(4) Should a person convicted under this Act whose license is revoked fail to surrender it to the court upon conviction the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) All licenses suspended or revoked pursuant to Section 6 or 7(1)(a) of this Act shall be surrendered to the court. Other revocations pursuant to this Act shall be administered by the transportation cabinet.

(2) The court shall retain control of the license until such time as the suspension or revocation imposed pursuant to Section 6 or 7(1)(a) of this Act is lifted and the court shall provide notification of the suspension and actions taken within fifteen (15) days to the transportation cabinet.

(3) At the end of the period of license suspension or revocation, imposed pursuant to Section 6 or 7(1)(a) of this Act, the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the transportation cabinet for other reasons, the license shall be returned.

SECTION 9. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a motor vehicle while his license is revoked or suspended for violation of Section 1 of this Act.

(2) Any person who violates subsection (1) of this section shall:

(a) For a first offense, be guilty of a Class B misdemeanor;

(b) For a second offense, be guilty of a Class A misdemeanor;

(c) For a third or subsequent offense, be guilty of a Class D felony.

(3) In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation.

SECTION 10. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. Such tests may be administered in the field to a person suspected of violation of Section 1 of this Act before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means field sobriety tests administered at the scene of an arrest for violation of Section 1 of this Act or such tests at a police station, jail, or other suitable facility subject to the following conditions:

(a) The testing is recorded in its entirety (except for blood alcohol analysis testing); and

(b) The entire recording is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and

(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and

(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and

(e) Recordings shall be used for official purposes only and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court. Recordings shall otherwise be considered as confidential records.

(f) After all appeals have been exhausted the recordings shall, upon the order of a district court, be destroyed.

(g) Public officials or employes utilizing or showing recordings other than as permitted in this Act or permitting others to do so shall be guilty of official misconduct in the first degree.

SECTION 11. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Any recommendation by the prosecution to amend a charge of violation of Section 1 of this Act

where the blood alcohol reading of the defendant is .10 percent or above, shall be accompanied by reasons for the amendment, such reasons to be recorded. If an amendment of a charge of violation of Section 1 of this Act is granted the court shall record its reasons in the record of the case.

(2) When a blood alcohol reading in a prosecution for violation of Section 1 of this Act is .15 percent or above, no prosecuting attorney shall agree to the amendment of the charge to a lesser offense and shall oppose the amendment of such charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

SECTION 12. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The Administrative Office of the Courts shall:

(1) Maintain a list of eligible organizations for whom persons sentenced under Section 3 of this Act may perform community service work and which have agreed to make proper reports to the court.

(2) Develop and distribute such forms as necessary to ensure compliance with the reporting provisions of Section 3 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Bail for persons who are not residents of Kentucky who are charged with a violation of Section 1 of this Act shall be five hundred dollars ($500) unless the defendant was involved in a motor vehicle accident in which property damage or physical injury to a person was involved in which case bail shall be one thousand five hundred dollars ($1,500). In the event of serious physical injury or death the minimum amount of bail shall be five thousand dollars ($5,000).

(2) No court shall release a person charged with a violation of Section 1 of this Act who is not a resident of Kentucky without the imposition of bail as required by subsection (1). Bail in subsection (1) shall be accepted in the full cash amount only, or with court approved surety for that amount, and no other form of bail shall be acceptable.

Section 14. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Driving a vehicle *which is not a motor vehicle* while under the influence of *alcohol or any other substance which may impair one's driving ability* [~~intoxicating liquor or narcotic drugs~~].

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways.

(d) Any felony in the commission of which a motor vehicle is used.

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months.

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident.

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years.

(2) If the person convicted of any offense named in subsection (1) is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520*(1)*[~~(2)~~], who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(5) Persons convicted of a first offense violation of Section 1 of this Act may elect to attend the driver improvement program established by this section and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in Section 7(1)(a) of this Act.

(6) License suspensions and revocations under Sections 6, 7, and 8 of this Act shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by this Act.

(7) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to Sections 6, 7, and 8 of this Act the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

Section 15. KRS 186.565 is amended to read as follows:

(1) Any person who operates a motor vehicle in this state is deemed to have given his consent to a [~~chemical~~] test of his blood, breath, urine or saliva for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages *or other substances which may impair one's driving ability.* The test shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages *or other substance which may impair one's driving ability.* The law enforcement agency by which the officer is employed shall designate which of the aforesaid tests shall be administered, and provide necessary equipment. The state shall provide one (1) breathalizer and simulating unit for each county, paid for by state funds. *Only operators who have successfully completed forty (40) hours of training in the operation of breath test instruments in a training program certified by the traffic safety program of the college of law enforcement, Eastern Kentucky University, shall be permitted to administer tests with breath test instruments. Every operator shall be required to successfully complete a refresher training course every three (3) years.*

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section and the test may be given.

(3) If a person under arrest refuses upon the request of a law enforcement officer to submit to a [~~chemical~~] test designated by the law enforcement agency as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given, but the transportation cabinet, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, *or other substances which may impair one's driving ability* that the person refused to submit to the test upon the request of the law enforcement officer, and that the person again refused to submit to the test after the law enforcement officer warned him of the effect of his refusal, the cabinet shall immediately serve notice upon said person in writing by mailing the notice to the person by certified mail to the last known residence address of the person or if the address is unknown, to the last known business address of the person to appear before the secretary or his duly authorized agent and show cause why his license to operate a motor vehicle, or if said person is a nonresident his privilege to operate a motor vehicle within this state should not be revoked; or if the person is a resident without a license or permit to operate a motor vehicle in this state why that person should not be denied the issuance of a license or permit. The hearing shall be scheduled as early as practical but not sooner than ten (10) days after the issuance of the notice and at a time and place designated by the secretary.

(4) For the purpose of the hearing, held in accordance with the order to show cause, the secretary may appoint an examiner who shall have the power to preside at the hearing. Upon the hearing the secretary or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages *or other substances which may impair one's driving ability,* whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer. All testimony at the hearing shall be recorded. The secretary's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The secretary within ten (10) days after the completion of the hearing shall order either: that the person's license to operate a motor vehicle, or, if the person is a nonresident, his privilege to operate a motor vehicle within this state be revoked for a period of not more than six (6) months or if the person is a resident without such license that there should be a denial of issuance of a license for a period of not more than six (6) months; or that no action be taken regarding said person's privilege to operate a motor vehicle. The secretary shall immediately notify the person of his ruling in writing by certified mail. If the person shall fail to attend the show cause hearing without good cause shown

the secretary shall forthwith revoke the person's license or privilege to operate a motor vehicle or deny issuance of a permit or operator's license.

(5) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license or permit to drive or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary within twenty (20) days after the final order has been issued. The perfected appeal suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected. The transportation cabinet shall file with its answer a copy of the secretary's ruling and a transcript of evidence. The court's review is limited to whether the secretary's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected.

(6) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the cabinet shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. The provisions of this section shall not apply to a person who refuses to submit to a [~~chemical~~] test of his blood, breath, urine or saliva if that person has enrolled in a driver's education program under the terms and conditions of KRS 186.560(4) and rules and regulations adopted thereunder.

(7) Any person who has had no previous conviction for violation of KRS 189.520 and who has refused to submit to a [~~chemical~~] test of his blood, breath, urine, or saliva may apply to a district court of competent jurisdiction for permission to enter a driver's education program as provided pursuant to KRS 186.560. If he is permitted by the court to enter the program he shall be subject to the same terms and conditions as any other person entering the program. The cabinet shall suspend the license for six (6) months of any person participating in such program if he fails to satisfactorily complete such driver's education program.

Section 16. KRS 186.574 is amended to read as follows:

(1) The transportation cabinet shall establish a driver improvement program *for new drivers and* for traffic offenders. The program shall be composed of uniform education and training elements designed to create a lasting and corrective influence on the driving performance of traffic offenders. District courts may in lieu of assessing penalties for traffic offenses, *other than for Section 1 of this Act*, sentence offenders to said driver improvement program and no other.

(2) Whenever any district court stipulates in its judgment of conviction that a person attend a driver improvement program, the court shall so indicate in the space provided on the abstract of conviction filed with the administrative office of the courts. Upon receipt of such abstract, the administrative office of the courts, or its representative, shall forthwith schedule such person to attend a driver improvement program. Failure of such person to attend and satisfactorily complete a driver improvement program in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The transportation cabinet shall supervise, operate and administer said driver improvement program, and shall promulgate such regulations as are necessary relating to facilities, equipment, courses of instruction, instructors and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete the prescribed driver improvement program, the administrative office of the courts shall provide a report to the local district court responsible for the sentencing.

(4) Persons *participating in the* [~~sentenced to a~~] driver improvement program as provided in this section shall[~~, upon sentencing,~~] pay a fee of fifteen dollars ($15.00) to defray the cost of operating the program.

Section 17. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any *substance* [~~drug~~] which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) [~~No person shall operate a motor vehicle anywhere in this state while under the influence of intoxicating beverages or any drug which may impair one's driving ability.~~

~~(3)~~] No peace officer or state police officer shall fail to enforce rigidly this section *and Sections 1 through 10 of this Act.*

(3)[~~(4)~~] In any criminal prosecution for a violation of *Section 1 of this act or subsection (1)* [~~subsections (1) and (2)~~] of this section, wherein the defendant is charged with having operated a vehicle while under the influence of intoxicating beverages, the amount of alcohol in the defendant's blood as determined at the time of making *an* [~~a chemical~~] analysis of his blood, urine, breath or other bodily substance, shall give

rise to the following presumptions:

(a) If there was 0.05 percent (5/100%) or less by weight of alcohol in such blood, it shall be presumed that the defendant was not under the influence of intoxicating beverages;

(b) If there was more than 0.05 percent (5/100%), but less than 0.10 percent by weight of alcohol in such blood, such fact shall not constitute a presumption that the defendant either was or was not under the influence of intoxicating beverages, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was 0.10 percent (1/10%) or more by weight of alcohol in such blood, it shall be presumed that the defendant was under the influence of intoxicating beverages.

(4)[~~(5)~~] The provisions of subsection *(3)* [~~(4)~~] of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

(5)[~~(6)~~] No person may be compelled to submit to any test specified in subsection *(3)* [~~(4)~~] of this section, but his refusal to submit to such test shall result in revocation of his license as provided in KRS 186.565(3).

(6)[~~(7)~~] Only a physician, registered nurse or qualified medical technician, duly licensed in Kentucky, acting at the request of the arresting officer can withdraw any blood of any person submitting to a [~~chemical~~] test under this section or KRS 186.565.

(7)[~~(8)~~] The person tested shall be permitted to have a duly licensed physician of his own choosing administer a [~~chemical~~] test in addition to the one administered at the direction of the police officer.

Section 18. KRS 189.530 is amended to read as follows:

No person shall *provide* [~~let~~] a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of *any substance which may impair one's driving ability* [~~drugs~~].

Section 19. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30.00). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60.00) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15.00) nor more than fifty dollars ($50.00) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15.00).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35.00) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15.00) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00).

(9) [~~(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than one hundred dollars ($100) nor more than five hundred dollars ($500); for the second offense, a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than thirty (30) days nor more than twelve (12) months.~~

~~(b)~~] Any peace officer who violates subsection *(2)* [~~(3)~~] of KRS 189.520 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30.00) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20.00) nor more than twenty-five dollars ($25.00).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35.00) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60.00) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300).

(24) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020

(but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

Section 20. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender *except that a juvenile offender accused or who pleads guilty to or is convicted of a motor vehicle offense shall be placed in a jail or other place of detention for adults, except in a room or ward entirely separate from adult prisoners*; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, or abused.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) No person shall willfully and unnecessarily expose to the inclemency of the weather, or in any other manner willfully injure in health or limb any child actually or apparently under the age of sixteen (16) years. The juvenile session of district court shall have exclusive jurisdiction of persons who violate this subsection.

(5) No person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) If the child is a female, in peddling or in any wandering occupation;

(c) In any indecent or immoral occupation or practice;

(d) In the exhibition of any such child when insane, or idiotic; or

(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

The juvenile session of district court shall have exclusive jurisdiction of persons who violate this subsection.

(6) Any person, over whom the court has jurisdiction under subsections (3), (4) or (5) of this section, shall be entitled to a trial by jury.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile session of district court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile session of district court in conflict therewith shall be deemed canceled.

(8) Actions brought under subsection (1)(a) of this section shall be considered to be delinquency actions.

(9) Actions brought under subsection (1)(b) and (c) of this section shall be considered to be status actions.

(10) Actions brought under subsection (1)(d) of this section shall be considered to be dependency actions.

Section 21. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the crime victims compensation board.

(2) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them.

(3) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted *or involved a violation of Section 1 of this Act.*

(4) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person.

(5) "Victim" means a resident of this state or the resident of a reciprocal state, who suffers personal injury or death from a criminal act in Kentucky as a result of:

(a) Criminally injurious conduct;

(b) A good faith effort to prevent criminally injurious conduct; or

(c) A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

Section 22. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has *probable cause* [~~reasonable grounds~~] to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, *except that a violation of Section 1 of this Act need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated Section 1 of this Act.*

(2) Any peace officer may arrest without warrant when he has *probable cause* [~~reasonable grounds~~] to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, parent, grandparent, child, or stepchild. Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has *probable cause* [~~reasonable grounds~~] to believe that the person being arrested has committed it.

Section 23. KRS 431.021 is amended to read as follows:

(1) A guaranteed arrest bond certificate presented by the person whose signature appears thereon shall be accepted in lieu of cash bail in an amount not to exceed two hundred dollars ($200) as a bail bond to guarantee the appearance of such person in any court of this Commonwealth, at the time required by such court, when he is arrested for violation of any law of this Commonwealth or traffic ordinance of any municipality therein relating to the operation of a motor vehicle. A guaranteed arrest bond certificate so presented as a bail bond is subject to the same forfeiture and enforcement provisions as a bail bond or cash bail, but is not subject to Rules 4.30 and 4.34 of the Kentucky Rules of Criminal Procedure. However:

(a) The violation must have been committed prior to the expiration date shown on the guaranteed arrest bond certificate, and

(b) A guaranteed arrest bond certificate may not be accepted when a person is arrested for violation of *Section 1 of this Act* [~~subsection (2) of KRS 189.520~~] or KRS Chapter 281.

(2) As used in this section, "guaranteed arrest bond certificate" means a printed card or other certificate issued by an association to any of its members, which is signed by the member and contains a printed statement that such association and a surety company licensed to do business in this Commonwealth:

(a) Guarantee the appearance of the person whose signature appears on the card or certificate, and

(b) Will, in the event of the failure of such person to appear in court at the time set for appearance, pay any fine or forfeiture imposed upon such person in an amount not to exceed two hundred dollars ($200).

Section 24. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 committed in his presence *or a violation of Section 1 of this Act, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).*

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

The Committee Substitute to **SB 20** is as follows:

SB 20, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a motor vehicle anywhere in this state while under the influence of alcohol or any other substance which may impair one's driving ability.

(2) Any person who violates the provisions of subsection (1) of this section shall:

(a) For the first offense, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than two (2) days nor more than thirty (30) days in lieu of fine or imprisonment, or both, provided that his offense does not come within the purview of subsection (4) of this section.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) For a third or subsequent offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.

(3) Minimum sentences of imprisonment or community labor under subsections (2)(b) and (2)(c) of this section shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(4) When sentencing persons convicted of violating subsection (2)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release. If a person other than the person convicted of violating Section 1 of this Act dies or has suffered physical injury, as defined in KRS 500.080, as a result of the convicted person's operation of a motor vehicle in violation of Section 1 of this Act, the sentence shall include imprisonment as specified in subsection (2)(a) and that portion of the sentence shall not be suspended, probated, or subject to conditional discharge or other form of early release.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Before sentencing a person convicted of violating Section 1 of this Act the court shall hold a presentence hearing, with the participation of the jury (if the trial was by a jury), at which it shall:

(a) Consider the past driving record of the defendant in Kentucky and, where feasible, in other United States jurisdictions where reciprocity on driving records exists;

(b) Consider the drinking or drug dependency or abuse status of the defendant and any reports thereon;

(c) Consider the recommendations of the prosecution and the defense with regard to the defendant's offense and his alcohol or drug abuse status.

(2) The court shall enter its findings with regard to each of the above considerations in the record of the case.

(3) The court, before sentencing, may require the defendant to undergo such testing and evaluation as it deems necessary, but in doing so, the court shall use existing treatment or evaluation agencies for such testing and evaluation. Costs of the evaluation and testing ordered pursuant to this section shall be paid by the defendant to the extent of his ability to pay. Costs shall not exceed the actual cost of testing and evaluation.

(4) No court shall waive this presentence procedure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

All community labor shall be under the supervision of the court and subject to the following:

(1) (a) No period of labor shall be less than four (4) hours to qualify for satisfaction of a sentence;

(b) A "day" shall mean eight (8) hours of labor;

(c) A "month" shall mean twenty (20) days of labor;

(d) Periods of labor four (4) hours or longer may be cumulated to meet the requirements under this Act;

(2) Labor shall be done for public agencies, nonprofit corporations or eleemosynary institutions only;

(3) Any agency for whom a person works shall agree to supervise such person and report to the court:

(a) The hours worked,

(b) The quality of the work,

(c) The nature of the work;

(4) An agency may refuse to accept persons under this program or to accept any particular person or persons sent by the court;

(5) The court shall maintain a list of agencies willing to accept and supervise persons sentenced under this program;

(6) The court may contract, at no cost to the state or participant, with any public agency or nonprofit corporation or eleemosynary institution for the supervision of persons in the program;

(7) No work performed under this program shall be deemed employment for any purpose nor shall the person performing such work be considered an employe;

(8) Failure to complete the community labor ordered by the court, to perform diligently at that labor, or to pay the fee required shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the community labor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Terms of imprisonment for first and second offenders under Section 1 of this Act shall, at the order of the court, be served on weekends or such other times as may preserve the employment or education of the offender, provided that no individual period of incarceration shall be less than twenty-four (24) hours.

(2) Terms of imprisonment for persons under the age of eighteen (18) shall be served in a location meeting the criteria of KRS Chapter 208.

SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other penalty prescribed by law for violation of subsection (2)(a) of Section 1 of this Act, the court, after the presentence investigation, may sentence the person to an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

(a) The sentence shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may, upon written recommendation to the court by the administrator of the program, be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(2) In addition to any other penalty prescribed by law for violation of subsection (2)(b) of Section 1 of this Act the court, after presentence investigation, shall sentence the person to an alcohol or substance abuse

treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) A defendant may, upon written recommendation to the court by the administrator of the program, be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by law for a violation of subsection (2)(c) of Section 1 of this Act the court, after presentence investigation, shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender.

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems. The program may be an inpatient or residential type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by Section 6 of this Act, or from state or federal funds or any combination thereof shall be deducted from the amount which the defendant must pay.

SECTION 6. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) All persons convicted of violation of Section 1 of this Act shall be sentenced to pay a service fee of one hundred fifty dollars ($150), which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The service fee shall be utilized to fund enforcement of this Act and for the support of jails, recordkeeping, and treatment and education programs authorized by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Upon arrest of a person for violation of Section 1 of this Act, and on motion of the attorney representing the Commonwealth, the court may, following a hearing, suspend the arrested person's driving license until final disposition of the case if the court finds that there is probable cause to believe that the person arrested violated Section 1 of this Act and any of the following aggravated circumstances:

(a) The prior driving history of the arrested person indicates prior traffic violations including but not limited to driving under the influence of intoxicating beverages or impairing chemicals or other traffic offenses demonstrating a lack of regard for the safety of others; or

(b) The violation of Section 1 of this Act resulted in an accident involving physical injury to a person other than the defendant.

(2) After a license has been suspended for fourteen (14) days the court shall, on motion of the defendant, review the status of the suspension and the continuing necessity therefor and may continue the suspension or restore the defendant's license.

(3) In no event shall a license suspension prior to trial exceed sixty (60) days regardless of whether the trial has not yet taken place.

(4) License suspensions pursuant to this section shall be administered by the court, with notification within five (5) days to the transportation cabinet of the suspension and actions taken thereon.

(5) Any person whose operator's license has been suspended by the court pursuant to this section shall be given credit toward his suspension for the period of time prior to final disposition for which his license was suspended.

SECTION 8. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in Section 1 of this Act, a person convicted of violation of Section 1 shall have his license to operate a motor

vehicle or motorcycle revoked as follows:

(a) For the first offense, six (6) months, unless the person enrolls in the driver improvement program specified by the transportation cabinet pursuant to KRS 186.560 or (at the option of the defendant) a licensed comprehensive care center education program, in which case the suspension shall be for thirty (30) days. If the person fails to successfully complete the driver improvement program or (at the option of the defendant) a licensed comprehensive care center education program, then the court shall order the license suspended for six (6) months;

(b) For the second offense, twelve (12) months;

(c) For a third or subsequent offense, twenty-four (24) months.

(2) A person under the age of eighteen (18) who is convicted of violation of Section 1 of this Act shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) whichever penalty will result in the longer period of revocation.

(3) Licenses revoked pursuant to this Act shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the transportation cabinet. No court shall waive or stay this procedure.

(4) Should a person convicted under this Act whose license is revoked fail to surrender it to the court upon conviction the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

SECTION 9. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) All licenses suspended or revoked pursuant to Section 7 or 8(1)(a) of this Act shall be surrendered to the court. Other revocations pursuant to this Act shall be administered by the transportation cabinet.

(2) The court shall retain control of the license until such time as the suspension or revocation imposed pursuant to Section 7 or 8(1)(a) of this Act is lifted and the court shall provide notification of the suspension and actions taken within five (5) days to the transportation cabinet.

(3) At the end of the period of license suspension or revocation, imposed pursuant to Section 7 or 8(1)(a) of this Act, the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the transportation cabinet for other reasons, the license shall be returned.

SECTION 10. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) No person shall operate a motor vehicle while his license is revoked or suspended for violation of Section 1 of this Act.

(2) Any person who violates subsection (1) of this section shall:

(a) For a first offense, be guilty of a Class B misdemeanor;

(b) For a second offense, be guilty of a Class A misdemeanor;

(c) For a third or subsequent offense, be guilty of a Class D felony.

(3) In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation.

SECTION 11. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. Such tests may be administered in the field to a person suspected of violation of Section 1 of this Act before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means field sobriety tests administered at the scene of an arrest for violation of Section 1 of this Act or such tests at a police station, jail, or other suitable facility subject to the following conditions:

(a) The testing is recorded in its entirety (except for blood alcohol analysis testing); and

(b) The entire recording is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and

(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and

(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and

(e) Recordings shall be used for official purposes only and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court. Recordings shall otherwise be considered as confidential records.

(f) After all appeals have been exhausted the recordings shall, upon the order of a district court, be destroyed.

(g) Public officials or employes utilizing or showing recordings other than as permitted in this Act or

permitting others to do so shall be guilty of official misconduct in the first degree.

SECTION 12. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

Any person who is arrested for a violation of Section 1 of this Act and who, upon blood alcohol testing, shows a blood alcohol reading above .15 percent shall be detained in custody at least four (4) hours following his arrest.

SECTION 13. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Any recommendation by the prosecution to amend a charge of violation of Section 1 of this Act where the blood alcohol reading of the defendant is .10 percent or above, shall be accompanied by reasons for the amendment, such reasons to be recorded. If an amendment of a charge of violation of Section 1 of this Act is granted the court shall record its reasons in the record of the case.

(2) When a blood alcohol reading in a prosecution for violation of Section 1 of this Act is .15 percent or above, no prosecuting attorney shall agree to the amendment of the charge to a lesser offense and shall oppose the amendment of such charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the justice cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

SECTION 14. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The Administrative Office of the Courts shall:

(1) Maintain a list of eligible organizations for whom persons sentenced under Section 3 of this Act may perform community service work and which have agreed to make proper reports to the court.

(2) Develop and distribute such forms as necessary to ensure compliance with the reporting provisions of Section 3 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Bail for persons who are not residents of Kentucky who are charged with a violation of Section 1 of this Act shall be five hundred dollars ($500) unless the defendant was involved in a motor vehicle accident in which property damage or physical injury to a person was involved in which case bail shall be one thousand five hundred dollars ($1,500). In the event of serious physical injury or death the minimum amount of bail shall be five thousand dollars ($5,000).

(2) No court shall release a person charged with a violation of Section 1 of this Act who is not a resident of Kentucky without the imposition of bail as required by subsection (1). Bail in subsection (1) shall be accepted in the full cash amount only, or with court approved surety for that amount, and no other form of bail shall be acceptable.

Section 16. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle.

(b) Driving a vehicle *which is not a motor vehicle* while under the influence of *alcohol or any other substance which may impair one's driving ability* [~~intoxicating liquor or narcotic drugs~~].

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways.

(d) Any felony in the commission of which a motor vehicle is used.

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months.

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident.

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years.

(2) If the person convicted of any offense named in subsection (1) is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one

(1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520*(1)*[~~(2)~~], who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(5) Persons convicted of a first offense violation of Section 1 of this Act may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in Section 8(1)(a) of this Act.

(6) License suspensions and revocations under Sections 7, 8, and 9 of this Act shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by this Act.

(7) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to Sections 7, 8, and 9 of this Act the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

Section 17. KRS 186.565 is amended to read as follows:

(1) Any person who operates a motor vehicle in this state is deemed to have given his consent to a [~~chemical~~] test of his blood, breath, urine or saliva for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages *or other substances which may impair one's driving ability*. The test shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages *or other substance which may impair one's driving ability*. The law enforcement agency by which the officer is employed shall designate which of the aforesaid tests shall be administered, and provide necessary equipment. The state shall provide one (1) breathalizer and simulating unit for each county, paid for by state funds.

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section and the test may be given.

(3) If a person under arrest refuses upon the request of a law enforcement officer to submit to a [~~chemical~~] test designated by the law enforcement agency as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given, but the transportation cabinet, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, *or other substances which may impair one's driving ability* that the person refused to submit to the test upon the request of the law enforcement officer, and that the person again refused to submit to the test after the law enforcement officer warned him of the effect of his refusal, the cabinet shall immediately serve notice upon said person in writing by mailing the notice to the person by certified mail to the last known residence address of the person or if the address is unknown, to the last known business address of the person to appear before the secretary or his duly authorized agent and show cause why his license to operate a motor vehicle, or if said person is a nonresident his privilege to operate a motor vehicle within this state should not be revoked; or if the person is a resident without a license or permit to operate a motor vehicle in this state why that person should not be denied the issuance of a license or permit. The hearing shall be scheduled as early as practical but not sooner than ten (10) days after the issuance of the notice and at a time and place designated by the secretary.

(4) For the purpose of the hearing, held in accordance with the order to show cause, the secretary may appoint an examiner who shall have the power to preside at the hearing. Upon the hearing the secretary or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages *or other substances which may impair one's driving ability*, whether the

person was placed under arrest, and whether he refused to submit to the test upon request of the officer. All testimony at the hearing shall be recorded. The secretary's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The secretary within ten (10) days after the completion of the hearing shall order either: that the person's license to operate a motor vehicle, or, if the person is a nonresident, his privilege to operate a motor vehicle within this state be revoked for a period of not more than six (6) months or if the person is a resident without such license that there should be a denial of issuance of a license for a period of not more than six (6) months; or that no action be taken regarding said person's privilege to operate a motor vehicle. The secretary shall immediately notify the person of his ruling in writing by certified mail. If the person shall fail to attend the show cause hearing without good cause shown the secretary shall forthwith revoke the person's license or privilege to operate a motor vehicle or deny issuance of a permit or operator's license.

(5) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license or permit to drive or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary within twenty (20) days after the final order has been issued. The perfected appeal suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected. The transportation cabinet shall file with its answer a copy of the secretary's ruling and a transcript of evidence. The court's review is limited to whether the secretary's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected.

(6) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the cabinet shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. The provisions of this section shall not apply to a person who refuses to submit to a [~~chemical~~] test of his blood, breath, urine or saliva if that person has enrolled in a driver's education program under the terms and conditions of KRS 186.560(4) and rules and regulations adopted thereunder.

(7) Any person who has had no previous conviction for violation of KRS 189.520 and who has refused to submit to a [~~chemical~~] test of his blood, breath, urine, or saliva may apply to a district court of competent jurisdiction for permission to enter a driver's education program as provided pursuant to KRS 186.560. If he is permitted by the court to enter the program he shall be subject to the same terms and conditions as any other person entering the program. The cabinet shall suspend the license for six (6) months of any person participating in such program if he fails to satisfactorily complete such driver's education program.

Section 18. KRS 186.574 is amended to read as follows:

(1) The transportation cabinet shall establish a driver improvement program *for new drivers and* for traffic offenders. The program shall be composed of uniform education and training elements designed to create a lasting and corrective influence on the driving performance of traffic offenders. District courts may in lieu of assessing penalties for traffic offenses, *other than for Section 1 of this Act,* sentence offenders to said driver improvement program and no other.

(2) Whenever any district court stipulates in its judgment of conviction that a person attend a driver improvement program, the court shall so indicate in the space provided on the abstract of conviction filed with the administrative office of the courts. Upon receipt of such abstract, the administrative office of the courts, or its representative, shall forthwith schedule such person to attend a driver improvement program. Failure of such person to attend and satisfactorily complete a driver improvement program in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The transportation cabinet shall supervise, operate and administer said driver improvement program, and shall promulgate such regulations as are necessary relating to facilities, equipment, courses of instruction, instructors and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete the prescribed driver improvement program, the administrative office of the courts shall provide a report to the local district court responsible for the sentencing.

(4) Persons *participating in the* [~~sentenced to a~~] driver improvement program as provided in this section shall[~~, upon sentencing,~~] pay a fee of fifteen dollars ($15.00) to defray the cost of operating the program.

Section 19. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any *substance* [~~drug~~] which may impair

one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) [~~No person shall operate a motor vehicle anywhere in this state while under the influence of intoxicating beverages or any drug which may impair one's driving ability.~~

~~(3)~~] No peace officer or state police officer shall fail to enforce rigidly this section *and Sections 1 through 10 of this Act.*

(3)[~~(4)~~] In any criminal prosecution for a violation of *Section 1 of this act or subsection (1)* [~~subsections (1) and (2)~~] of this section, wherein the defendant is charged with having operated a vehicle while under the influence of intoxicating beverages, the amount of alcohol in the defendant's blood as determined at the time of making *an* [~~a chemical~~] analysis of his blood, urine, breath or other bodily substance, shall give rise to the following presumptions:

(a) If there was 0.05 percent (5/100%) or less by weight of alcohol in such blood, it shall be presumed that the defendant was not under the influence of intoxicating beverages;

(b) If there was more than 0.05 percent (5/100%), but less than 0.10 percent by weight of alcohol in such blood, such fact shall not constitute a presumption that the defendant either was or was not under the influence of intoxicating beverages, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was 0.10 percent (1/10%) or more by weight of alcohol in such blood, it shall be presumed that the defendant was under the influence of intoxicating beverages.

(4)[~~(5)~~] The provisions of subsection *(3)* [~~(4)~~] of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

(5)[~~(6)~~] No person may be compelled to submit to any test specified in subsection *(3)* [~~(4)~~] of this section, but his refusal to submit to such test shall result in revocation of his license as provided in KRS 186.565(3).

(6)[~~(7)~~] Only a physician, registered nurse or qualified medical technician, duly licensed in Kentucky, acting at the request of the arresting officer can withdraw any blood of any person submitting to a [~~chemical~~] test under this section or KRS 186.565.

(7)[~~(8)~~] The person tested shall be permitted to have a duly licensed physician of his own choosing administer a [~~chemical~~] test in addition to the one administered at the direction of the police officer.

Section 20. KRS 189.530 is amended to read as follows:

No person shall *provide* [~~let~~] a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of *any substance which may impair one's driving ability* [~~drugs~~].

Section 21. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20.00) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30.00). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60.00) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15.00) nor more than fifty dollars ($50.00) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15.00).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35.00) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15.00) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20.00) nor more than fifty dollars ($50.00).

(9) [~~(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than one hundred dollars ($100) nor more than five hundred dollars ($500); for the second offense, a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and imprisoned for not less than thirty (30) days nor more than twelve (12) months.~~

~~(b)~~] Any peace officer who violates subsection *(2)* [~~(3)~~] of KRS 189.520 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30.00) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20.00) nor more than twenty-five dollars ($25.00).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20.00) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35.00) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35.00) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60.00) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS

189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300).

(24) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020 (but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

Section 22. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender *except that a juvenile offender accused or who pleads guilty to or is convicted of a motor vehicle offense shall be placed in a jail or other place of detention for adults, except in a room or ward entirely separate from adult prisoners*; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, or abused.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) No person shall willfully and unnecessarily expose to the inclemency of the weather, or in any other manner willfully injure in health or limb any child actually or apparently under the age of sixteen (16) years. The juvenile session of district court shall have exclusive jurisdiction of persons who violate this subsection.

(5) No person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) If the child is a female, in peddling or in any wandering occupation;

(c) In any indecent or immoral occupation or practice;

(d) In the exhibition of any such child when insane, or idiotic; or

(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

The juvenile session of district court shall have exclusive jurisdiction of persons who violate this subsection.

(6) Any person, over whom the court has jurisdiction under subsections (3), (4) or (5) of this section, shall be entitled to a trial by jury.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile session of district court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the

court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile session of district court in conflict therewith shall be deemed canceled.

(8) Actions brought under subsection (1)(a) of this section shall be considered to be delinquency actions.

(9) Actions brought under subsection (1)(b) and (c) of this section shall be considered to be status actions.

(10) Actions brought under subsection (1)(d) of this section shall be considered to be dependency actions.

Section 23. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the crime victims compensation board.

(2) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them.

(3) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal injury or death, and is punishable by fine, imprisonment or death. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted *or involved a violation of Section 1 of this Act*.

(4) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person.

(5) "Victim" means a resident of this state or the resident of a reciprocal state, who suffers personal injury or death from a criminal act in Kentucky as a result of:

(a) Criminally injurious conduct;

(b) A good faith effort to prevent criminally injurious conduct; or

(c) A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

Section 24. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has *probable cause* [~~reasonable grounds~~] to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, *except that a violation of Section 1 of this Act need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated Section 1 of this Act.*

(2) Any peace officer may arrest without warrant when he has *probable cause* [~~reasonable grounds~~] to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, parent, grandparent, child, or stepchild. Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has *probable cause* [~~reasonable grounds~~] to believe that the person being arrested has committed it.

Section 25. KRS 431.021 is amended to read as follows:

(1) A guaranteed arrest bond certificate presented by the person whose signature appears thereon shall be accepted in lieu of cash bail in an amount not to exceed two hundred dollars ($200) as a bail bond to guarantee the appearance of such person in any court of this Commonwealth, at the time required by such court, when he is arrested for violation of any law of this Commonwealth or traffic ordinance of any municipality therein relating to the operation of a motor vehicle. A guaranteed arrest bond certificate so

presented as a bail bond is subject to the same forfeiture and enforcement provisions as a bail bond or cash bail, but is not subject to Rules 4.30 and 4.34 of the Kentucky Rules of Criminal Procedure. However:

(a) The violation must have been committed prior to the expiration date shown on the guaranteed arrest bond certificate, and

(b) A guaranteed arrest bond certificate may not be accepted when a person is arrested for violation of *Section 1 of this Act* [~~subsection (2) of KRS 189.520~~] or KRS Chapter 281.

(2) As used in this section, "guaranteed arrest bond certificate" means a printed card or other certificate issued by an association to any of its members, which is signed by the member and contains a printed statement that such association and a surety company licensed to do business in this Commonwealth:

(a) Guarantee the appearance of the person whose signature appears on the card or certificate, and

(b) Will, in the event of the failure of such person to appear in court at the time set for appearance, pay any fine or forfeiture imposed upon such person in an amount not to exceed two hundred dollars ($200).

Section 26. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 committed in his presence *or a violation of Section 1 of this Act, not committed in his presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).*

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 27. KRS 507.020 is amended to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) *Including, but not limited to, the operation of a motor vehicle* under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a capital offense.

Section 28. KRS 507.040 is amended to read as follows:

(1) A person is guilty of manslaughter in the second degree when, *including, but not limited to, the operation of a motor vehicle,* he wantonly causes the death of another person.

(2) Manslaughter in the second degree is a Class C felony.

SB 141, AN ACT relating to civil rights.

WHEREAS, the purpose of the Kentucky Civil Rights Act is to provide for execution within the State of the policies embodied in the Federal Civil Rights Act; and

WHEREAS, housekeeping amendments are needed to the Kentucky Civil Rights Act to carry out policies of the Federal Civil Rights Act and recent court decisions;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.110 is amended to read as follows:

(1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, national origin, sex, or age between forty (40) and seventy (70) of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, or age between forty (40) and seventy

(70) employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, national origin, sex, or age between forty (40) and seventy (70) in the state or a community, section, or other area, or in the available workforce in the state or a community, section or other area.

(2) Nothing contained in this chapter regarding age prohibits:

(a) Minimum hiring ages otherwise provided by law.

(b) State compliance with federal regulations.

(c) Termination of the employment of any person who is unable to perform his duties.

(d) Any physical or medical examinations of applicants or employes which an employer requires to determine fitness for the job or position sought or held.

(e) An employer, labor organization or employment agency from observing the terms of a bona fide seniority system or any bona fide employe benefit plan such as a retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employe benefit plan shall excuse the failure to hire any individual, *and no such seniority system or employe benefit plan shall require or permit the involuntary retirement of any individual because such individual is between age forty (40) and seventy (70).*

Section 2. KRS 344.145 is amended to read as follows:

(1) It shall be an unlawful practice to deny an individual, because of sex, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a restaurant, hotel, [~~or~~] motel, *or any facility supported directly or indirectly by government funds.*

(2) The provisions of this section shall not apply to:

(a) Restrooms, shower rooms, bath houses and similar facilities which are in their nature distinctly private;

(b) YMCA, YWCA and similar type dormitory lodging facilities;

(c) The exemptions contained in KRS 344.130*;*

(d) Hospitals, nursing homes, penal or similar facilities, to require that men and women be in the same room.

Section 3. KRS 344.210 is amended to read as follows:

(1) Within sixty (60) days after a complaint is filed, unless the commission has issued an order dismissing the complaint or stating the terms of a conciliation agreement or within thirty (30) days after an application for review is filed under subsection (3) of KRS 344.200, the commission shall serve on the respondent by certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing before one or more members of the commission or an individual designated pursuant to its rules, at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the attorney general, and such other public officers and persons as the commission deems proper.

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation or persuasion, shall not participate in the hearing or in the subsequent deliberation of the commission.

(3) The respondent *shall* [~~may~~] file an answer with the commission by certified mail not less than *twenty (20)* [~~five (5)~~] days before the hearing date. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the order is based.

(4) The case in support of the complaint shall be presented before the commission by one of its attorneys or staff. Efforts at conference, conciliation, and persuasion shall not be received in evidence.

(5) A respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing, may examine and cross-examine witnesses and the complainant, and may offer evidence. The complainant, the attorney general, and, in the discretion of the commission, any person may intervene, examine and cross-examine witnesses, and present evidence.

(6) If the respondent fails to answer the complaint, the commission may enter his default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(7) Testimony taken at the hearing shall be under oath and transcribed. After the hearing, in its discretion, the commission upon notice to all parties with an opportunity to be present may take further evidence or hear argument.

Section 4. KRS 344.270 is amended to read as follows:

The commission shall not take jurisdiction over any claim of an unlawful practice under this chapter while a claim of the same person seeking relief for the same grievance under KRS 344.450 is pending. A state court shall not take jurisdiction over any claim of an unlawful practice under this chapter while a claim of the *same person seeking relief for the same grievance is pending before the commission* [~~Neither the commission nor any court of this state shall take jurisdiction over any claim of an unlawful practice under this chapter while a claim of the same person seeking relief for the same grievance is pending~~]. A final determination *by a state court or the commission* of a claim alleging an unlawful practice under *KRS 344.450* [~~this chapter~~] shall exclude any other action or proceeding brought by the same person based on the same grievance.

The Committee Amendment No. 1 to **SB 141** is as follows:

Amend printed copy of **SB 141**, page 1, lines 1 through 14, by deleting same;

And on page 2, lines 1 through 26, by deleting same;

And on page 3, line 1, by deleting same;

And on page 3, line 2, by renumbering Section 2 to read Section 1;

And on page 3, line 21, by renumbering Section 3 to read Section 2;

And on page 5, line 21, by renumbering Section 4 to read Section 3.

Calendar

HB 642, HB 758, HB 429, HB 431, HB 538, HB 666, HB 742, HB 753, HB 762, HB 776, HCR 94, SB 154, HB 112, HB 247, HB 264, HB 269, HB 679, HB 790, HB 21, HB 702, HB 749, HB 817, HB 847, HR 50, HJR 63, HR 66, SB 135, HB 710, HB 304, HB 513, HB 582, HB 646, HB 686, HB 701, HB 780, and **SB 133** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

SB 24 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only. Agreed by a majority of members elected.

Representative Barrows moved that **SB 24** be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 24 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 24** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 595, with Committee Substitute and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 595**. Agreed.

Representative Heleringer moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 595**. Rejected.

Representative Stumbo moved that **HB 595**, by way of Committee Substitute, be passed.

Representative Heleringer moved the adoption of the Floor Amendment No. 2 to **HB 595**.

On the roll call the vote was yeas 28-Allen, Bennett, Blevins, Bronger, Caldwell, Dawahare, Donnermeyer, Endicott, Ford, Freibert, Gray, Gunethner, Heleringer, Holloway, Layman, Lile, Maggard, McBee, Meyer, Morris, Nett, O'Brien, Rattliff, Reinhardt, Stumbo, Todd, White, Williams. Nays 42-Barrows, Bendl, Brown, Burch, Burnette, L. Clark, P. Clark, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Ellington, Foster, Gedling, Handy, Harper, Hines, R. Jones, T. Jones, Kenton, Lefevers, LeMaster, List, McElroy, McNutt, Moberly, Overstreet, Patrick, Pearman, Rapier, Riner, Robinson, Seum, B. Smith, Stone, Thomas, Thomason, Turner, Van Horn, Yates.

Floor Amendment No. 2 to **HB 595** was rejected.

Representative P. Clark moved that **HB 595**, by way of Committee Substitute, be laid on the table.

On the roll call the vote was yeas 60-Allen, Arnold, Bennett, Blandford, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Gedling, Guenthner, Hancock, Handy, Harper, Head, Holloway, Johnson, Kidd, Layman, Lefevers, Lile, Long, Maggard, McElroy, McNutt, Meyer, Nett, Noland, O'Brien, Patrick, Pearman, Priddy, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, B. Smith, F. Smith, Stone, Thomas, Todd, Turner, Van Horn, Yates. Nays 31-Barrows, Bendl, Blevins, Clarke, Cowan, Cyrus, Dawahare, DEskins, Foster, Freibert, Gray, Heleringer, Hines, Holbrook, R. Jones, T. Jones, Kenton, LeMaster, Lundergan, McBee, Moberly, Morris, Noe, Overstreet, Petty, B. Richardson, Seum, Stumbo, Thomas, White, Williams.

HB 595, by way of Committee Substitute, was laid upon the table.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 370** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:42 p.m.)

HB 370 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 565, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 565** be passed.

Representative Yates moved the adoption of the Floor Amendment No. 1 to **HB 565**. Agreed.

Representative Arnold moved that **HB 565**, as amended, be passed.

On the roll call the vote was yeas 83-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, Lile, List, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, Williams, Yates. Nays 6-Clarke, Ellington, Hancock, R. Jones, Little, White.

HB 565, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 565**, as amended, was passed be

reconsidered and said motion be placed on the table. Agreed.

HB 562 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 562** be passed.

On the roll call the vote was yeas 87-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 562 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 562** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved that **HB 372** be passed.

On the roll call the vote was yeas 90-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 1-Turner.

HB 372 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 372** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 546 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 546** be passed.

On the roll call the vote was yeas 55-Arnold, Bendl, Bennett, Blandford, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Crupper, Cyrus, Donnermeyer, Dunn, Farrow, Foster, Gedling, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, Kenton, Kidd, Little, Long, Lundergan, Maggard, McBee, McElroy, Moberly, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, Reinhardt, Richards, Riner, Seum, B. Smith, F. Smith, Stumbo, White, Williams, Yates. Nays 27-Allen, Blevins, Burnette, Clapp, Curd, Dawahare, Deskins, Ellington, Endicott, Ford, Freibert, Fryman, Gray, Holloway, R. Jones, Layman, Lefevers, Lile, McNutt, Nett, Noland, Overstreet, Rattliff, Stone, Todd, Turner, Van Horn.

HB 546 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 546** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 153, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Amendment NO. 1 to **HB 153**. Agreed.

Representative Freibert moved that **HB 153**, as amended, be passed.

On the roll call the vote was yeas 61-Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Freibert, Hancock, Handy, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Lile, Little, Long, Lundergan, Maggard, McElroy, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Perkins, Rattliff, Reinhardt, Richards, B. Richardson, Riner, Robinson, B. Smith, F. Smith, Thomas, Thomason, Van Horn, Williams, Yates. Nays 25-Allen, Arnold, Blandford, Brown, Craddock, Crupper, Dawahare, Farrow, Foster, Fryman, Gray, Head, List, McNutt, Moore, Pearman, Priddy, Rapier, Seum, Stone, Stumbo, Todd, Turner, White, Worthington.

HB 153, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 153**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 547 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 547** be passed.

On the roll call the vote was yeas 78-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, B. Richardson, P. Richardson, Riner, Seum, B. Smith, Stumbo, Thomas, Thomason, Van Horn, Williams, Worthington, Yates. Nays 1-Pearman.

HB 547 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 547** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 590, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Floor Amendment No. 1 to **HB 590**. Agreed.

Representative Donnermeyer moved that **HB 590**, as amended, be passed.

Representative Donnermeyer moved that **HB 590**, as amended, be laid on the Clerk's desk. Agreed.

HB 86, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Floor Amendment No. 1 to **HB 86**. Agreed.

Representative Moberly moved that **HB 86**, as amended, be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Foster, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 8-Allen, Ellington, Ford, Fryman, Layman, McNutt, Todd, Turner.

HB 86, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 86,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 323, with Committee Substitute, Committee Amendments, and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved the adoption of the Committee Substitute to **HB 323.** Agreed.

Representative Cowan moved that **HB 323,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 82-Arnold, Barrows, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, Noland, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 9-Allen, Ellington, Ford, Guenthner, McNutt, Reinhardt, B. Smith, Todd, Turner.

HB 323, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 323,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 632, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that **HB 632** be passed.

On the roll call the vote was yeas 93-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 632 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 632** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 51, with Committee Amendments and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved the adoption of the Committee Amendment No. 1 to **HB 51**. Agreed.

Representative Burnette moved the adoption of the Committee Amendment No. 2 to **HB 51**. Agreed.

Representative Pearman moved the adoption of the Floor Amendment No. 1 to **HB 51**. Agreed.

Representative Burnette moved that **HB 51**, as amended, be passed.

On the roll call the vote was yeas 87-Allen, Arnold, Bennett Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, Little, Long, Lundergan, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 4-Caldwell, Clarke, Freibert, Holbrook.

HB 51, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 51**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 69, with Committee Amendment and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Committee Amendment No. 1 to **HB 69**. Agreed.

Representative Williams moved the adoption of the Floor Amendment No. 1 to **HB 69**.

On the roll call the vote was yeas 41-Bendl, Bennett, Blevins, Bronger, Bruce, Burch, Caldwell, L. Clark, P. Clark, Clarke, Donnermeyer, Dunn, Gedling, Guenthner, Hancock, Handy, Hines, Holloway, T. Jones, Kenton, LeMaster, Long, Mann, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Pearman, Perkins, Petty, Priddy, Rapier, B. Richardson, Seum, Thomas, Todd, Van Horn, Williams, Yates. Nays 45-Allen, Arnold, Brinkley, Brown, Burnette, Clapp, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gray, Harper, Head, Holbrook, Johnson, Layman, Lefevers, Lile, List, Little, Lundergan, Maggard, McBee, McElroy, McNutt, Moore, Noland, Rattliff, Reinhardt, Richards, Robinson, Stone, Turner, White, Worthington.

Floor Amendment No. 1 to **HB 69** was rejected.

Representative Williams moved that **HB 69**, as amended, be laid on the Clerk's desk.

Representative Little moved that **HB 69**, as amended, be laid on the table. Rejected.

Representative Williams moved that **HB 69**, as amended, be laid on the Clerk's kesk. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Resolutions and Report of Committees. Agreed.

Introduction of Resolutions

HR 116, by Representatives Cyrus, Cline, and Brown: A RESOLUTION directing the Kentucky department of highways to name the soon to be constructed South Shore Bridge in honor of U.S. Congressman Carl D. Perkins.

HR 117, by Representatives Cyrus and Holbrook: A RESOLUTION directing the Department of Highways to name the soon to be constructed Greenup Dam Bridge in memory of Jesse Stuart.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for committee consideration:

Energy: **HJR 109, HB 1014.**

Natural Resources and Environment: **HB 987, HB 983, HB 960, HJR 101.**

State Government: **HB 455, HB 622, HB 60, HB 763, HB 842, HB 853, HB 657, HB 658, HB 936, HB 941, HB 943, HB 945, HB 974.**

Transportation: **HB 801.**

Judiciary-Civil: **HB 8, HB 708, HB 716, HB 722, HB 725, HB 723, HB 724, SB 194, SB 229, SB 17, SB 201, HB 796, HB 843, HB 823, HB 832, HB 935, HB 951, HB 954, HB 994, SB 233, SB 293.**

Appropriations and Revenue: **HB 456, HB 1006, HB 1020, HB 111.**

Report of Committees

The Committee on Natural Resources reported **HB 544, HB 729,** and **HB 895** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 544, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding under the direction of the commissioner in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine in his district at least once every six (6) months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist, making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in those gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal and clay, *including any overland coal belts and water facilities*; and

(8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal or clay mine, *including any overland coal belts and water facilities,* at any reasonable time.

HB 729, AN ACT relating to the production of oil and gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

No operator shall utilize shackle rods or related cables for the production of oil or gas without the permission of the present owner of the land upon which the wells exist or are drilled unless such rods or cables are placed in conduit and buried at least twenty-four (24) inches below the surface of the land between all wellheads and power stations or are attached to power poles with the rods or cables twenty (20) feet above the surface of the land between all wellheads and power stations.

Section 2. KRS 353.991 is amended to read as follows:

(1) Any person who violates any provision of KRS 353.570 shall be subject to a fine of not more than two hundred dollars ($200) or imprisonment for a term not exceeding thirty (30) days, or both.

(2) Any person, who continues to violate any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 after being notified in writing of the violation by the department shall be subject to a fine of not more than two hundred dollars ($200) or imprisonment for a term not exceeding thirty (30) days, or both.

(3) Any person, who does any of the following for the purpose of evading or violating KRS 353.500 to 353.720, or any rule, regulation, or order promulgated or issued under KRS 353.500 to 353.720, shall be subject to a fine of not more than two hundred dollars ($200) or imprisonment for a term not exceeding thirty (30) days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by KRS 353.500 to 353.720, or by any rule, regulation or order;

(b) Omits or causes to be omitted from a report, record, account or memorandum full, true, and correct entries and information as required by KRS 353.500 to 353.720, or by any rule, regulation, or order;

(c) Removes from this Commonwealth or destroys, mutilates, alters or falsifies a report, record, account or memorandum as required by KRS 353.500 to 353.720, or by any rule, regulation, or order.

(4) Any person who knowingly aids or abets any other person in the violation of any provision of KRS 353.500 to 353.720, or any rule, regulation or order promulgated or issued under KRS 353.500 to 353.720 shall be subject to the same penalty as that prescribed in this section for the violation by such other person.

(5) Any person who violates the provisions of Section 1 of this Act shall be notified by the department that he has twenty (20) days in which to remedy the violation. If after the twenty (20) day time period has elapsed that person has failed or refused to comply with the provisions of Section 1 of this Act, such person shall be subject to a fine of twenty dollars ($20) a day until such oil or gas well is brought into compliance.

Section 3. This Act shall become effective January 1, 1985.

HB 895, AN ACT relating to fish and wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in subsections (2), (3), (4), (5), (6) and (7) of this section, and subject to regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to game and fish unless he holds the kind of license or permit, resident or nonresident, that authorizes such act. It is the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for herein, except to such extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap or dip net.

(3) The resident owner of farmlands, his spouse or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season (except trapping) on said farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon said farmlands, shall have the same privilege.

(4) Residents or nonresidents attending and participating in any field trial as authorized by the

department may so attend and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three days may, in the county of his legal residence at the time of his entrance into the service, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while so doing he must carry on his person proper identification and papers showing his furlough status.

(7) *Any disabled American veteran may, without any sport hunting or sport fishing licenses, do any act authorized by such licenses, but while doing so must carry identification indicating they are a disabled veteran.*

(8) Resident landowners, their spouses or dependent children who kill or trap on their lands any wild animals or birds causing damage to such lands or any personal property situated thereon, shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon said lands shall also have the same privilege. Upon destruction of any animal or bird by the above specified individuals, such act must be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(9)[~~(8)~~] In the event a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and the similar authority of Missouri, Tennessee, Virginia and West Virginia, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states are permitted to perform the acts authorized by such license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the state of Kentucky. A resident of the state of Kentucky must purchase a proper Kentucky license to conform with the reciprocal agreement.

The Committee Amendment No. 1 to **HB 895** is as follows:

Amend printed copy of **HB 895**, page 2, line 23, by inserting after the word "*Any*" the words "*totally and permanently*"

And on page 2, line 7, by inserting after the word "*veteran*" the words "*residing in Kentucky*"

And on page 2, line 26, by inserting after the word "*a*" the words "*totally and permanently*"

The Committee on Banking and Insurance reported **HB 821** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 821, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.10-070 is amended to read as follows:

(1) A broker shall not place surplus lines insurance with an insurer that he knows, or in the exercise of reasonable diligence could know has a surplus in regard to policyholder of less than three million dollars ($3,000,000), is unsound financially, or that is ineligible under the Kentucky insurance code.

(2) *A broker may place insurance covering certificates of investment with an insurance company or guarantee fund which is financially sound and has capital funds and reserves in excess of fifteen million dollars ($15,000,000).*

(3) A broker shall not place insurance with an alien insurer that is not recognized by the national association of insurance commissioners and does not maintain in the United States a trust fund for the benefit of United States policyholders of at least one million five hundred thousand dollars ($1,500,000).

(4)[~~(3)~~] A broker shall not place insurance with an insurer that has engaged in the insurance business less than three (3) years unless such insurer has deposited with the custodian of insurance securities publicly-traded securities with a market value of at least three hundred thousand dollars ($300,000).

(5)[~~(4)~~] This section shall not apply to surplus lines insurers eligible to do business in Kentucky as of July 15, 1982, except that the commissioner may revoke such eligibility, or may order such insurer to comply with this section or may suspend the operation of the insurer in Kentucky.

Motions, Petitions, and Communications (continued)

Representative White moved that she be records as changing her vote from "nay" to "yea" on **HB 565**. Agreed.

Representative Perkins moved that he be recorded as voting "yea" on the motion to table **HB 595**. Agreed.

Representative Maggard moved that he be recorded as voting "yea" on **HB 51**. Agreed.

The following meetings were announced:

Special meeting of the Committee on State Government, Friday, 8 a.m., Room 110.

Special meeting of the Committee on Counties and Special Districts: Friday, 8:30 a.m., Room 105.

Representative Moore moved the adoption of the following Legislative Citation Nos. 89, 90 and 91. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds the Clay County High School Scholastic Team members Bill White, Shannon Cornett and Karen Edwards, for the meritorious honor you brought your school on December 8, 1983, when you won the first round of KET's Scholastic Challenge in Lexington, Kentucky. Karen Edward's rapid response to the sudden death tie breaker question between Anderson County and Clay County captured the competition for your team. This honor is a great tribute to you and emblematic of an excellent team effort. This competition is exemplary of your exceptional academic accomplishments and abilities. Your high standards have brought honor and great pride to your school and community.

This prestigious body salutes you and extends to you our very best wishes for continued success. (Sponsored by Representative Moore)

The House of Representatives of the Commonwealth of Kentucky hereby commends the Clay County Retired Teachers' Association for your lifelong dedication to the educational system of Clay County. In the two short years since the organization of the association, your membership now exceeds over one hundred members. Your regular monthly meetings and your representation in Frankfort at the Capitol, is exemplary of your superb professionalism. The fact that you are interested in your schools and what they are doing for education as well as what the state of Kentucky is doing for education as a whole, is especially noteworthy. Your contribution to education is most admirable as you have shared generously of your knowledge, time, resources and experiences for which we are sincerely grateful. As educators you have influenced and inspired the lives of thousands of young people.

This prestigious body highly salutes you for your continuing dedication and contribution to the Clay County educational system and applauds you for the great distinction you have brought to your community and the Commonwealth of Kentucky. (Sponsored by Representative Moore)

The House of Representatives of the Commonwealth of Kentucky hereby applauds Foreman Bob Crawford and the employees of the Leslie County State Highway Maintenance Garage for your prompt removal of ice and snow from the Leslie County roads. Your expedient action is especially noteworthy and was appreciated by all residents of your community.

This prestigious body highly commends you for your fortitude and dedication to the welfare of the residents of Leslie County and the Commonwealth of Kentucky. (Sponsored by Representative Moore)

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 112**:

HR 112, A RESOLUTION honoring the Kentucky Society of Professional Engineers MATHCOUNTS Program.

WHEREAS, the Kentucky Society of Professional Engineers in conjunction with the National Society for Professional Engineers has begun sponsorship of a program designed to reverse the current problem of mathematics illiteracy in the nation; and

WHEREAS, this program, known as MATHCOUNTS, provides mathematics competitions for seventh and eighth grade high school students at the local, state, and national levels; and

WHEREAS, MATHCOUNTS teams winning at the state level will compete in the national competition to be held at NASA headquarters in Washington, D.C.; and

WHEREAS, the national championship team will be awarded the honor of attending the launching of the next space shuttle, which will be named in the team's honor; and

WHEREAS, this program is designed to impart upon student "mathletes" basic mathematics skills and problem-solving strategies through competition at an age when they are formulating attitudes about mathematics and technology; and

WHEREAS, the MATHCOUNTS program has received overwhelming support from the National Aeronautic and Space Administration, National Science Foundation, National School Board, National Association of Secondary School Principals, Mathematical Association of America, CNA Insurance Companies, Kentucky Department of Education, Kentucky Teachers of Mathematics Council, and businesses and individuals across the nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the Kentucky Society of Engineers and all other organizations involved in sponsoring the MATHCOUNTS program, and thus showing their concern for improving the mathematical and technological strength of our nation.

Section 2. That the House of Representatives commends the many engineers across the Commonwealth who have devoted much of their spare time to coaching and tutoring students who will decide the technological future of our nation.

Section 3. That the House of Representatives directs the clerk of that chamber to send a copy of this resolution to Mr. Russ Reynolds, in care of the Kentucky Society of Professional Engineers, Millville Road, Frankfort, Kentucky.

HR 112 was adopted by voice vote.

Representative O'Brien moved that **HB 841** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative O'Brien moved that **HB 848** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Hancock moved that **HB 752** be withdrawn. Agreed.

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **SB 56,** by Representative Nett:

Amend printed copy of Committee Substitute to **SB 56,** page 46, line 24, by removing the brackets and strikethrough from "This section"

and on line 25 by removing the bracket and strikethrough from "does not apply to presidential primaries."

and on page 53, line 16, by removing the bracket and strikethrough from "(3) This section does not apply to presidential"

and on line 17, by removing the bracket and strikethrough from "preference primary candidates."

and on page 77, line 10, after "36." by inserting the following:

"As used in Sections 37 to 46 of this Act, "political party" means each political party that cast ten percent (10%) or more of the vote for governor in the preceding election, or has a registration equal to ten percent (10%) or more of the total registered voters in the Commonwealth.

SECTION 37. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) On the regular primary election day, in accordance with KRS 118.025 in each presidential election year, the Commonwealth of Kentucky shall conduct presidential preference primary elections within each political party.

(2) Hours of voting shall be in accordance with KRS 118.035.

(3) The cost of election, officials, and the entire method of conducting the presidential preference primary shall be in accordance with Kentucky statutory provisions on primary elections.

SECTION 38. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

To qualify to vote in a presidential preference primary in the Commonwealth a voter must register to vote in the same manner as prescribed in KRS Chapter 116. A voter shall vote only in the presidential preference primary of the political party for which he has declared a preference as required by KRS 116.055.

SECTION 39. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The state board of elections shall convene in Frankfort ninety (90) days before the date fixed by law for the holding of primary elections. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those generally advocated and nationally recognized as candidates of the political parties for the office of president of the United States. Immediately upon completion of this requirement, the board shall transmit a list of all such nominees selected to the secretary of state and shall also release the list to the news media.

(2) For purposes of this section, a candidate shall be considered generally advocated and nationally recognized if the candidate:

(a) Has a current national campaign and has participated in one (1) or more previous primaries; or

(b) Has major support by his party in his home state or is well recognized by the media as a leading independent; or

(c) Has received national exposure for his campaign; or

(d) Has a staff and resources to realistically campaign in the state; or

(e) Can reasonably expect to receive federal matching funds; or

(f) Submits documents to support that he is generally advocated and nationally recognized, and request that he be nominated by the board.

SECTION 40. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) Any person seeking the endorsement by a political party for the office of president of the United States who has not been nominated by the state board of elections, or any group organized in this state on behalf of, and with the consent of, such person, may file with the secretary of state certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in this Commonwealth and are affiliated, by such registration, with the same political party as the candidate for whom petitions are filed.

(2) Such petitions shall be filed by the petitioners with the secretary of state no later than the last date prescribed by election law generally for filing nomination papers with the secretary of state prior to a primary.

(3) The petitions must state:

(a) The name of the candidate for nomination and the party of which he is a member.

(b) The name and address of the chairman of the group circulating such petition.

(4) The secretary of state shall forthwith determine the sufficiency of petitons filed with him and shall immediately communicate his determination to the chairman of the group which has filed said petitions.

SECTION 41. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall forthwith contact each person who has been nominated by the state board of elections or by petition and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party, provided that he:

(a) Deposits with the secretary of state the sum required by Section 42 of this Act; and

(b) Forwards to the secretary of state a notice of candidacy form, to be supplied by the secretary of state, along with the written notification required by this section.

(2) Failure of a candidate to deposit the fee required by Section 42 of this Act and to execute the notice of candidacy within fifteen (15) days after receipt of the written notification shall be a disclaimer and a withdrawal of his name from the primary.

SECTION 42. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

Each candidate nominated for the presidential preference primary pursuant to Section 39 or 40 of this Act or by independent petition for president of the United States at the November election pursuant to KRS 118.315, must submit a filing fee in the sum of two hundred fifty dollars ($250) to the secretary of state in order to have his name certified as a candidate pursuant to KRS 118.215.

SECTION 43. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of state shall place the names of all candidates who have been nominated by the state board of elections or by petition and who satisfy the requirements of Sections 41 and 42 of this Act on the official presidential preference primary ballot of their respective political parties. The secretary of state shall additionally place on the ballot of each political party a ballot slot for voters to cast an "uncommitted" vote. This vote shall be entitled to the same proportionate representation as a candidate under Section 45 of this Act, but delegates representing these voters shall not be bounds by the first ballot requirement of Section 44 of this Act.

If no presidential candidates nominated by the board or by petition meet the requirements of Sections 41 and 42, then no presidential preference primary shall be held in the Commonwealth.

SECTION 44. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

Upon completion of the official canvass of the results of the primary by the state board of elections, the secretary of state shall certify to the state chairman of each political party participating in the presidential preference primary the following:

(1) The names of the candidates entitled to delegate votes under provisions of Section 45 of this Act;

(2) The total vote received by each;

(3) A declaration that the results of the presidential preference primary, in accordance with the division of votes reflected by the official canvass, shall be the official vote cast by each political party at its national convention, on the first ballot only, and shall be designated by Sections 36 to 46 of this Act as an automatic vote, expressing the will of the people of the Commonwealth of Kentucky; and

(4) After the vote on the first ballot by the political party at its national convention, as required by this section, all responsibility under Sections 36 to 46 of this Act shall terminate and further balloting shall be

the prerogative of the political parties as might be prescribed by the rules of such political parties.

SECTION 45. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) The political parties in distributing authorized delegate votes among party candidates shall select one of the following methods of distribution:

(a) The candidates receiving the highest number of votes, provided each candidate receives at least fifteen percent (15%) of the total vote cast by his political party, shall be awarded a pro rata portion of the authorized delegate vote of his political party as follows:

1. The total vote received by the candidates qualifying under the provisions of Sections 36 to 46 of this Act and subsections herein shall, when combined, be equal to one hundred percent (100%);

2. Each such candidate shall share in the total percentage in direct proportion to the total vote received by him mathematically determined to be the percentage of the aggregate vote which represents one hundred percent (100%);

3. Each political party shall appropriate such percentage, as is determined by this section, to the total number of delegate votes as are allotted by the national committee of each party; or

(b) The candidate receiving the highest number of votes cast by his political party shall be awarded a pro rata portion of the authorized delegate vote of his political party in compliance with the state party rules for that party.

(2) Each political party shall, on the first ballot at its national convention, cast this Commonwealth's vote for the candidates as determined by the primary and calculated under this section. Provided, however, that in the event of the death or withdrawal of a candidate receiving votes under this section prior to the tabulation of the first ballot, any delegate votes allocated to such candidate shall be considered uncommitted. Withdrawal shall mean notice in writing by the candidate to the chairman of the Kentucky delegation prior to the first ballot.

SECTION 46. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

It shall be the responsibility of the state chairman of each political party to notify his party's national committee, no later than January 30 of each year in which such presidential primary shall be conducted, of the provisions contained herein relating to the automatic vote on the first ballot as required under Sections 36 to 46 of this Act.

Section 47."

and by renumbering the remaining sections to conform.

and on page 78, line 26, after "29 and" by inserting "47" and by deleting "36"

Floor Amendment No. 2 to **SB 56**, by Representative Williams:

Amend printed copy of Committee Substitute to **SB 56**, page 77, between lines 9 and 10, by inserting the following:

Section 36. KRS 6.031 is amended to read as follows:
Section 31. KRS 6.031 is amended to read as follows:
The Commonwealth of Kentucky is divided into representative districts as follows:
(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.
(2) Second District: Graves County.
(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.
(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland

No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in

the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the Lexington-Blue Grass Army Depot and in the election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16,

24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, [~~15, 16, 17,~~] 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; [~~and~~] voting precincts *21, 22, 23,* 24 and 25 of the Twelfth Ward of the city of Louisville*; that part of voting precinct 17 of the Twelfth Ward of the city of Louisville that fronts on Greenwood Avenue; and that part of voting precinct 17 of the Eleventh Ward of the city of Louisville that lies west of the center line of 32nd Street.*

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, *15, 16* and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, [~~17,~~] 18, 19, *and* 20[~~, 21, 22 and 23~~] of the Twelfth Ward of the city of Louisville*; that part of voting precinct 17 of the Eleventh Ward of the city of Louisville that lies east of the center line of 32nd Street; and that part of voting precinct 17 of the Twelfth Ward of the city of Louisville that does not front on Greenwood Avenue.*

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census

County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, Sandfordtown, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the precinct of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, and Burtonsville and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the

Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, Aspendale, Bluegrass, Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, Ohio, Rookwood, Victory, Walnut Street, Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, Douglas, Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, Imperial, Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles Pike, Viley Heights, Washington, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and Arlington.

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport, Blueberry Hills, Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell, McDowell West, Malabu, Montavesta, Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, Tudor, Bayswater, Kirklevington, Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview, Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, River Park, Blairmore, Edgewater, Ascot, Park Hills, Cove Lake, Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen,

Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner, Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood, Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

And on page 77, line 10, by changing "Section 36" to "Section 37"; and

On page 77, line 13, by changing "Section 37" to "Section 38"; and

On page 78, line 7, by changing "Section 38" to "Section 39"; and

On page 78, line 24, by inserting after "Elections," the phrase "and whereas this Act alters the boundaries of representative districts in which primary elections will be held in May of 1984,"; and

On page 78, line 26, by deleting "and 36" and by inserting in lieu thereof "36 and 37."

Floor Amendment No. 3 to **SB 56**, by Representative Robinson:

Amend printed copy of Committee Substitute to **SB 56**, page 77, line 10, after "Section 36" by inserting the following:

"A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

Each county clerk and the secretary of state shall keep a book in which he shall enter certain information concerning candidates to be chosen by convention. Such book shall include the name, place of residence, office for which the person is a candidate, party designation, and the date of the receipt of the form required to be filed by KRS 118.325(3) as amended by this Act. Such book shall be a public record.

SECTION 37. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) In addition to possessing all other qualifications, any person desiring to become a write-in candidate in a general election for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of congress and members of the general assembly, and in which a vacancy has not occurred, shall file a registration paper with the county clerk not later than ninety (90) days prior to the primary election date. Any person desiring to become a write-in candidate in a general election for an office to be voted for by the electors of more than one (1) county, or for members of congress and members of the general assembly, and in which a vacancy has not occurred, shall file a registration paper with the secretary of state not later than ninety (90) days prior to the primary election date.

(2) Such registration paper shall be filed with the official designated in subsection (1) of this section by a person desiring to become a write-in candidate at a special election not later than the date provided in the election law generally for candidates to file such nomination papers prior to such special election. Such registration paper shall be filed with the official designated in subsection (1) of this section by a person desiring to become a write-in candidate for an office in which a vacancy has occurred in either the office or a nomination to the office, not later than the number of days prior to such election that notification and declaration forms are required to be filed prior to a primary election.

(3) The registration paper to be filed by the candidate shall be a signed statement by him to include his name, place of residence, date of birth, the office which he seeks, and a statement of qualifications. When the law mandates that a candidate shall possess the qualifications required for the office on the date of the election, such statement shall include a statement that the candidate shall meet such qualifications. When the law mandates that a candidate shall possess the qualifications required for the office on the date he shall assume the office, such statement shall include a statement that the candidate shall meet such qualifications. The registration paper shall be in the form prescribed by the state board of elections.

(4) Write-in candidates shall be required to pay a filing fee.

(5) The secretary of state shall notify the county clerk in each county in which there will appear on the ballot an office for which a write-in candidate has registered with the secretary of state. Such notice shall be made by certified mail not later than seven (7) days before the date of the election.

SECTION 38. A NEW SECTION OF KRS CHAPTER 118A IS CREATED TO READ AS FOLLOWS:

(1) In addition to possessing all other qualifications, any person desiring to become a write-in candidate in a general election for an office of the court of justice in which a vacancy has not occurred, shall file a registration paper with the secretary of state not later than ninety (90) days prior to the primary election date.

(2) Such registration paper shall be filed by a person desiring to become a write-in candidate at a special election not later than the date provided in the election law generally for candidates to file such nomination papers prior to such special election. Such registration paper shall be filed by a person desiring to become a write-in candidate for an office in which a vacancy has occurred in either the office or a nomination to the office, not later than the number of days prior to such election that petitions for nomination are required to be filed prior to a primary election.

(3) The registration paper to be filed by the candidate shall be a signed statement by him to include his name, place of residence, date of birth, the office which he seeks, and a statement that on the date he shall assume office he shall possess the required qualifications for the office he seeks. The registration paper shall be in the form prescribed by the state board of elections.

(4) Write-in candidates shall be required to pay a filing fee.

(5) The secretary of state shall notify the county clerk in each county in which there will appear on the ballot an office for which a write-in candidate has registered with the secretary of state. Such notice shall be made by certified mail not later than seven (7) days before the date of the election.

Section 39. KRS 118.305 is amended to read as follows:

(1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2) and (3) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the special ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the secretary of state or the appropriate county clerk.

(b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the secretary of state or the appropriate county clerk within the time prescribed in this chapter.

(c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the secretary of state or the appropriate county clerk *not later than the number of days prior to a general election which the election law requires that notification and declaration forms be filed prior to a primary* [~~, at least fifty-five (55) days before the regular election~~].

(d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the secretary of state or the appropriate county clerk within the time prescribed in this chapter.

(e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the secretary of state or the appropriate county clerk within the time prescribed in this chapter.

(f) Where a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If such ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to insertion in the proper ballot frames.

(g) Candidates for president and vice-president of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, where the certificate of nomination of such electors has been filed with the secretary of state within the time prescribed in this chapter.

(h) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210.

(2) Candidates for members of boards of education shall have their names printed on ballot labels and special ballots for the regular election only after filing as provided in KRS 160.220.

(3) Except as provided in KRS 118.105 and 118.115, the name of no candidate shall be printed upon the ballot labels and special ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in this chapter.

(4) No county clerk shall knowingly cause to be printed, upon the ballot labels or special ballot for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been nominated in the manner provided in the primary election laws.

(5) The names of candidates for president and vice-president shall be certified in lieu of certifying the names of the candidates for presidential electors.

(6) Whenever a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and secretary of state of the vacancy.

Section 40. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, may nominate candidates for members of the legislative bodies of cities of the fifth and sixth classes in the same manner. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of president and vice president of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a convention or primary election shall be in writing, shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of president and vice president of the United States the certificate of nomination shall state the names of the candidates of the party for president and vice president.

(3) *Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of president and vice-president of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The statement shall be prescribed by the state board of elections, to be subscribed and sworn to by the person making it, before an officer authorized to administer an oath, such form to include the name, place of residence, and the party and office for which he desires to become a candidate. Such statement shall be subscribed and sworn to by the person making it before*

an officer authorized to administer an oath. Such statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.

(5)[~~(4)~~] In case of death, resignation or removal of any such candidate subsequent to nomination and before the ballot labels are printed, the chairman of the state, county or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of president and vice president of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(6)[~~(5)~~] If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the secretary of state and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the secretary of state and county clerk.

Section 41. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the state board of elections shall be filed by that board with the secretary of state immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) *Petitions of nomination for candidates to offices which are prohibited from utilizing a primary shall be filed with the county clerk not less than ninety (90) days before the day fixed by law for the holding of regular elections.*

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of president and vice-president of the United States, shall file such statements as are required by KRS 118.325(3) of this Act, as amended with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than ninety (90) days prior to the day fixed by law for holding of regular elections.

(4) Certificates of nomination made by the governing authority of a *political organization constituting a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two per cent (2%) of the vote of the state at the last preceding election for presidential electors* [~~party~~] to fill vacancies in office, as provided in KRS 118.115 *and KRS 118.325*, shall [~~, when required to be filed with the secretary of state,~~] be filed *as required with the secretary of state or county clerk* not less than *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for the election of the person in nomination. [~~When required to be filed with the county clerk, they shall be filed not less than fifty-five (55) days before the day fixed by law for the election of the person in nomination.~~]

(5)[~~(3)~~] Petitions [~~and certificates~~] of nomination *shall* [~~, when required to~~] be filed *as required* with the secretary of state *or county clerk* [~~, shall be filed~~] not less than *ninety (90)* [~~fifty-five (55)~~] days before the day fixed by law for the holding of *primary* [~~regular~~] elections. *Certificates of nomination shall be filed with the secretary of state or county clerk, as required by law, not less than ninety (90) days before the day fixed by law for the holding of general elections.* [~~When required to be filed with the county clerk, they shall be filed not less than fifty-five (55) days before the day fixed by law for holding of regular elections.~~]

(6)[~~(4)~~] Petitions and certificates of nomination for electors of president and vice president of the United States shall be filed with the secretary of state not less than *ninety (90)* [~~fifty-five (55)~~] days prior to the date fixed by law for the election of such electors.

Section 42. KRS 262.210 is amended to read as follows:

[~~No less than fifty-five (55) days before the day fixed by law for holding of regular elections,~~] Nominating petitions *shall* [~~may~~] be filed with the clerk of the county in which the district lies to nominate candidates for supervisors of the district. *Such petitions shall be filed not later than the number of days prior to a general election which the election law generally requires notification and declaration forms to be filed prior to a primary.* Each nominating petition shall be subscribed by twenty-five (25) or more qualified voters who are residents of the territory to be encompassed by the district. Resident qualified voters may join in nominating by petition more than one candidate for supervisor. The nominating petition shall state the residence and post-office address of each candidate, that he is legally qualified to hold the office, and that the subscribers desire, and are legally qualified, to vote for the candidate. The county clerk shall certify the nomination and election of supervisors to the commission.

Section 43. KRS 262.240 is amended to read as follows:

(1) A supervisor's term begins on January 1 following his election. The two (2) supervisors elected in the general election of 1974 shall be elected for a term of two (2) years. In 1976 a general election shall be conducted for seven (7) supervisors. The four (4) supervisors elected with the highest number of votes in the general election of 1976 shall serve for four (4) years; the other three (3) supervisors elected in 1976 shall serve for two (2) years. In the event only seven (7) nominating petitions for supervisors are filed, the commission shall declare the nominees elected without an election, and shall name four (4) of the nominees to serve terms of four (4) years, and three (3) to serve terms of two (2) years. Thereafter supervisors shall be elected for four (4) years as their terms expire. Nominating petitions for supervisors shall be filed with the county clerk not *later* [~~less~~] than *the number of days prior to a regular election which the election law requires notification and declaration forms to be filed prior to a primary* [~~fifty-five (55) days prior to the day of the election~~]. No such nominating petition shall be accepted by the clerk unless it is signed by twenty-five (25) or more qualified resident voters of the district. Qualified resident voters may sign more than one (1) nominating petition to nominate more than one (1) candidate for supervisor. In the event nominating petitions for only the number of supervisors to be elected are filed, the commission shall declare the nominees elected without holding an election. *The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.*

(2) A supervisor shall hold office until his successor has been elected and has qualified. Vacancies shall be filled for the unexpired term by appointment by the commission.

(3) A supervisor may be reimbursed for expenses necessarily incurred in the discharge of his duties and may be paid a per diem for attending meetings or otherwise discharging the obligations of his office.

(4) A supervisor shall be a resident of the county or district in which he serves as a supervisor, and upon moving from the county or district, the supervisor shall be ineligible to serve as a supervisor and his office shall be vacant.

(5) A supervisor who has been declared elected without an election pursuant to subsection (1) of this section may be removed from office by the commission in the same manner as provided by KRS 65.007 for removal of an appointed member of the governing body of a special district.

Section 44."

And on page 77, line 13, after "Section" by inserting "45" and by deleting "37"

And on page 78, after line 6, by inserting the following:

"Section 46. Sections 37-43 of this Act shall become effective on January 1, 1985."

And on line 7, after "Section" by inserting "47" and by deleting "38"

And on line 26, after "29 and" by inserting "44" and by deleting "36"

Floor Amendment No. 4 to **SB 56**, by Representative O'Brien:

Amend printed copy of Committee Substitute to **SB 56**, page 77, between lines 9 and 10, by inserting the following:

Section 36. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.

(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton *#1*, *Canton #2*, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, *Montgomery, Linton*-Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville *#1 and* #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the [~~Lexington-Blue Grass Army Depot and in the~~] election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow, *Middletown* and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting

precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; *and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.*

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, *that part of* Sandfordtown *not contained in the Sixty-third District,* Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the *city* [~~precinct~~] of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: *that part of Bromley precinct not contained in Ludlow city and in Bromley city,* Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, *Petersville,* and Burtonsville [~~and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary~~].

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama,

Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, *Aspendale-Bluegrass* [~~Aspendale, Bluegrass~~], Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, *Ohio-Walnut* [~~Ohio~~], Rookwood, Victory, [~~Walnut Street,~~] Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, *Douglas-Washington* [~~Douglas~~] , Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, [~~Imperial,~~] Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles *Road* [~~Pike~~], Viley Heights, [~~Washington,~~] Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and *Arlington-Imperial* [~~Arlington~~].

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport *North, Airport South,* Blueberry Hills *South, Blueberry Hills West,* Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell *East, McDowell West,* Malabu, Montavesta *East, Montavesta West,* Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, *South Point North,* Tudor, Bayswater, Kirklevington *East, Kirklevington West,* Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview *North, Lakeview South,* Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, *Delong East,* River Park, Blairmore, Edgewater, Ascot, Park Hills *North, Park Hills South,* Cove Lake *North, Cove Lake South,* Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard, *Portersburg* and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon, *Booneville South, Booneville North* and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen,

Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner , Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood , Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

Section 37. KRS 6.041 is amended to read as follows:

(1) Any reference in KRS 6.011 and 6.031 to a census unit, city, county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980.

(2) Any reference to a ward, commissioner's district or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980, *and except that for purposes of KRS 6.031:*

(a) Any reference to Trigg County election precincts or other territory shall mean those precincts or territory as their boundaries existed on January 1, 1984;

(b) Any reference to the Madison County election precincts of Middletown and Menales Todd shall mean those precincts as their boundaries existed on January 1, 1984; and

(c) Any references to Fayette County election precincts shall mean those precincts as their boundaries existed on January 1, 1984.

And on page 77, line 10, by changing "Section 36" to "Section 38"; and

On page 77, line 13, by changing "Section 37" to "Section 39"; and

On page 78, line 7, by changing "Section 38" to "Section 40"; and

On page 78, line 24, by inserting after "Elections," the phrase "and whereas this Act alters the boundaries of representative districts in which primary elections will be held in May of 1984,"; and

On page 78, line 26, by deleting "and 36" and by inserting in lieu thereof ", 36, 37 and 38."

Floor Amendment No. 1 to **HB 146**, by Representative Pearman:

Amend printed copy of **HB 146** on page 4, after line 18, by adding the following:

"Section 2. KRS 341.281 is amended to read as follows:

(1) Each nonprofit organization that has elected to make payments in lieu of contributions under KRS 341.275 shall pay to the department for the fund the amount of regular benefits plus the amount of one-half (1/2) of extended benefits paid that are attributable to service performed in covered employment in the employ of such nonprofit employer. Each governmental entity that has elected to make payments in lieu of contributions under the provisions of KRS 341.277 shall pay to the department for the fund the amount of all regular benefits plus all extended benefits paid for compensable weeks occurring after January 1, 1979 attributable to service performed in covered employment. *If benefits paid to an individual are based on wages paid by more than one (1) employer and one (1) or more employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subsection (2) or (3) of this section.*

(2) If benefits paid to an individual are based on wages paid by one (1) or more employers that are liable for payments in lieu of contributions and on wages paid by one (1) or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the

total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

(3) If benefits paid to an individual are based on wages paid by two (2) or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

(4)[~~(2)~~] Two (2) or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of KRS 341.275, may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon his approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which he receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be jointly and severally liable for payment to the fund in lieu of contributions with respect to each calendar quarter in an amount equal to the total benefits paid in such quarter that are attributable to service performed in the employ of any or all members of the group. The secretary shall prescribe such procedures as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection and the time and manner of such payments.

(5)[~~(3)~~] Two (2) or more governmental entities that have become liable for payment in lieu of contributions, in accordance with the provisions of KRS 341.277, may file a joint application to the secretary for the establishment of a group account of governmental entities subject to all of the provisions of subsection (2) of this section.

Section 3. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 through KRS 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged *proportionally against the accounts of those of his subject employers from whom he has base period wages. The proportion so used shall be that ratio which is obtained by dividing the base period wages of a worker received from such employer by the total base period wages and previously uncovered wages, as defined in KRS 341.092, of such worker, provided, however, that the division of unemployment insurance may, when necessary, make such fractional adjustments in such computation as may be required to assure mathematical compliance with this provision* [~~against the reserve account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits were paid shall have been in the employ of such employer for at least thirty (30) days whether or not consecutive~~].

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 through 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 through 341.740 for compensable weeks occurring on or after January 1, 1979 and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to an employer's reserve account under such subsection shall be charged against the pooled account if such worker was [~~in the employ of such employer for less than thirty (30) days whether or not consecutive, or~~] discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account shall, unless terminated as of the computation date (as defined in subsection (6) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540.

(5) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty days following the mailing of notices of new rates shall, in accordance with regulations established by the secretary, be credited to an employer's reserve account as of the computation date; provided, no voluntary payments shall be used in computing an employer's rate unless such payment is made prior to the expiration of one hundred and twenty days after the beginning of the year for which such rate is effective. The provisions of this subsection shall expire on July 1, 1983.

(6) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance and dissolution of a group reserve account.''

Floor Amendment No. 3 to **HB 366,** by Representative Pearman:

Amend printed copy of **HB 366,** page 1, after line 20, by adding the following:

''Section 2. KRS 341.281 is amended to read as follows:

(1) Each nonprofit organization that has elected to make payments in lieu of contributions under KRS 341.275 shall pay to the department for the fund the amount of regular benefits plus the amount of one-half (1/2) of extended benefits paid that are attributable to service performed in covered employment in the employ of such nonprofit employer. Each governmental entity that has elected to make payments in lieu of contributions under the provisions of KRS 341.277 shall pay to the department for the fund the amount of all regular benefits plus all extended benefits paid for compensable weeks occurring after January 1, 1979 attributable to service performed in covered employment. *If benefits paid to an individual are based on wages paid by more than one (1) employer and one (1) or more employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subsection (2) or (3) of this section.*

(2) If benefits paid to an individual are based on wages paid by one (1) or more employers that are liable for payments in lieu of contributions and on wages paid by one (1) or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

(3) If benefits paid to an individual are based on wages paid by two (2) or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

(4)[~~(2)~~] Two (2) or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of KRS 341.275, may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon his approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which he receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be jointly and severally liable for payment to the fund in lieu of contributions with respect to each calendar quarter in an amount equal to the total benefits paid in such quarter that are attributable to service performed in the employ of any or all members of the group. The

secretary shall prescribe such procedures as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection and the time and manner of such payments.

(5)[~~(3)~~] Two (2) or more governmental entities that have become liable for payment in lieu of contributions, in accordance with the provisions of KRS 341.277, may file a joint application to the secretary for the establishment of a group account of governmental entities subject to all of the provisions of subsection (2) of this section.

Section 3. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 through KRS 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged *proportionally against the accounts of those of his subject employers from whom he has base period wages. The proportion so used shall be that ratio which is obtained by dividing the base period wages of a worker received from such employer by the total base period wages and previously uncovered wages, as defined in KRS 341.092, of such worker, provided, however, that the division of unemployment insurance may, when necessary, make such fractional adjustments in such computation as may be required to assure mathematical compliance with this provision* [~~against the reserve account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits were paid shall have been in the employ of such employer for at least thirty (30) days whether or not consecutive~~].

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 through 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 through 341.740 for compensable weeks occurring on or after January 1, 1979 and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to an employer's reserve account under such subsection shall be charged against the pooled account if such worker was [~~in the employ of such employer for less than thirty (30) days whether or not consecutive, or~~] discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account shall, unless terminated as of the computation date (as defined in subsection (6) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540.

(5) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty days following the mailing of notices of new rates shall, in accordance with regulations established by the secretary, be credited to an employer's reserve account as of the computation date; provided, no voluntary payments shall be used in computing an employer's rate unless such payment is made prior to the expiration of one hundred and twenty days after the beginning of the year for which such rate is effective. The provisions of this subsection shall expire on July 1, 1983.

(6) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account, and once established, such account shall remain in effect at least two (2) calendar

years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance and dissolution of a group reserve account."

Floor Amendment No. 2 to **HB 590**, by Representative Donnermeyer:

Amend printed copy of **HB 590**, page 1, line 4, by deleting "*or supplies, all*"

Floor Amendment No. 1 to **HB 679**, by Representative Moore:

Amend printed copy of **HB 679**, page 3, following line 3, by adding the following:

"Section 2. KRS 350.010 is amended to read as follows:
As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the department; or the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the department; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Department" means the department for natural resources and environmental protection;

(11) "Secretary" means the secretary of the department for natural resources and environmental protection;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the department;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the department determines that they are in compliance with KRS 350.455.

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. [~~Such certification shall not be construed to constitute a warranty or guarantee.~~]

Floor Amendment No. 1 to **HB 992**, by Representative Pearman:

Amend printed copy of **HB 992**, page 8, after line 19, by adding the following:

"Section 6. KRS 341.281 is amended to read as follows:

(1) Each nonprofit organization that has elected to make payments in lieu of contributions under KRS 341.275 shall pay to the department for the fund the amount of regular benefits plus the amount of one-half (1/2) of extended benefits paid that are attributable to service performed in covered employment in the employ of such nonprofit employer. Each governmental entity that has elected to make payments in lieu of contributions under the provisions of KRS 341.277 shall pay to the department for the fund the amount of all regular benefits plus all extended benefits paid for compensable weeks occurring after January 1, 1979 attributable to service performed in covered employment. *If benefits paid to an individual are based on wages paid by more than one (1) employer and one (1) or more employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subsection (2) or (3) of this section.*

(2) If benefits paid to an individual are based on wages paid by one (1) or more employers that are liable for payments in lieu of contributions and on wages paid by one (1) or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

(3) If benefits paid to an individual are based on wages paid by two (2) or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base period wages paid to the individual by such employer bear to the total base period wages paid to the individual by all of his base period employers.

(4)[~~(2)~~] Two (2) or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of KRS 341.275, may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon his approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which he receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the

account, each member of the group shall be jointly and severally liable for payment to the fund in lieu of contributions with respect to each calendar quarter in an amount equal to the total benefits paid in such quarter that are attributable to service performed in the employ of any or all members of the group. The secretary shall prescribe such procedures as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection and the time and manner of such payments.

(5)[~~(3)~~] Two (2) or more governmental entities that have become liable for payment in lieu of contributions, in accordance with the provisions of KRS 341.277, may file a joint application to the secretary for the establishment of a group account of governmental entities subject to all of the provisions of subsection (2) of this section.

Section 7. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 through KRS 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged *proportionally against the accounts of those of his subject employers from whom he has base period wages. The proportion so used shall be that ratio which is obtained by dividing the base period wages of a worker received from such employer by the total base period wages and previously uncovered wages, as defined in KRS 341.092, of such worker, provided, however, that the division of unemployment insurance may, when necessary, make such fractional adjustments in such computation as may be required to assure mathematical compliance with this provision* [~~against the reserve account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits were paid shall have been in the employ of such employer for at least thirty (30) days whether or not consecutive~~].

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 through 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 through 341.740 for compensable weeks occurring on or after January 1, 1979 and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to an employer's reserve account under such subsection shall be charged against the pooled account if such worker was [~~in the employ of such employer for less than thirty (30) days whether or not consecutive, or~~] discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account shall, unless terminated as of the computation date (as defined in subsection (6) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540.

(5) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty days following the mailing of notices of new rates shall, in accordance with regulations established by the secretary, be credited to an employer's reserve account as of the computation date; provided, no voluntary payments shall be used in computing an employer's rate unless such payment is made prior to the expiration of one hundred and twenty days after the beginning of the year for which such rate is effective. The provisions of this subsection shall expire on July 1, 1983.

(6) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code

501(c)(3)) organizations may jointly request the secretary to establish a group reserve account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance and dissolution of a group reserve account."

Adjournment

Representative LeMaster moved that the House adjourn until 10 a.m., Friday, March 9, 1984.

On the roll call the vote was yeas 67-Bendl, Bennett, Blevins, Brinkley, Brown, Bruce, Burch, Caldwell, L. Clark, P. Clark, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Endicott, Ford, Freibert, Fryman, Gedling, Gray, Harper, Head, Hines, Holbrook, Johnson, R. Jones, T. Jones; Kenton, Kidd, Lefevers, LeMaster, Lile, List, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Nett, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, F. Smith, Stone, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 5-Foster, Handy, Maggard, Moore, Perkins.

The motion to adjourn was adopted.

FRIDAY, MARCH 9, 1984

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Dr. John Kerce, First Methodist United Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen and Lundergan.

Representative Brinkley moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 8, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 77, SB 262, SB 302, SB 306, SB 317, SB 336, SB 356, HB 200, HB 446, HB 478,** and **HB 583.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and resolutions:

Appropriations and Revenue: **SB 197.**

Banking and Insurance: **SB 308.**

Transportation: **SB 288.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **SB 256.**

Counties and Special Districts: **HB 855, HB 703, HB 733, HB 764, HB 797, HB 982, HB 889, SB 3, SB 276.**

Transportation: **HB 869.**

Banking and Insurance: **HB 206, SB 255.**

Report of Committees

The Committee on Rules reported **HB 21, HB 264, HB 304, HB 429, HB 431, HB 486, HB 513, HB 538, HB 686, HB 749, HB 776, HR 50, SB 154, HB 735, HB 271, HB 609, HB 376, HB 619, HB 644,** and **HB 179** have been posted for passage in Orders of the Day, March 12, 1984.

The Committee on Rules reported the following Bills and Resolution have been recommitted:

Appropriations and Revenue: **HB 112, HB 269, HCR 94, HB 347.**

State Government: **HB 430.**

The Committee on Appropriations and Revenue reported **HB 684,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 684, AN ACT relating to the equine industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 137.170 is amended to read as follows:

(1) Every person engaged in the business of conducting a race track at which races are run for stakes, purses or prizes, under the jurisdiction of the state racing commission, shall pay a license tax to the state, as provided in subsection (2) of this section.

(2) Any such race track [~~at which the average daily mutuel handle~~] for any year commencing December 1 and ending the following November 30 [~~exceeds the sum of $600,000 per day~~] for the days upon which races are actually conducted for any stake, purse or prize, shall pay a license tax *based on* [~~of twenty-five hundred dollars ($2,500) per day for each such day. Any such track at which~~] the average daily mutuel handle for *the preceding* [~~any~~] year *as follows:*

Average Daily Mutuel Handle	*License Tax*
0 - $450,000	*$ 500*
$450,001 - $700,000	*$1,000*
$700,001 - $800,000	*$1,500*
$800,001 - $900,000	*$2,000*
$900,001 and above	*$2,500*

[~~commencing December 1 and ending the following November 30 exceeds $450,000 per day for each day upon which races are actually conducted for any stake, purse or prize, but does not amount to $600,000, shall pay a license tax of one thousand dollars ($1,000) per day for each such day. Any such track at which the average daily mutuel handle for any year commencing December 1 and ending the following November 30 does not amount to $450,000 per day for the days upon which races are actually conducted for any stake, purse or prize, shall pay a license tax of five hundred dollars ($500) per day~~].

(3) As used in [~~the preceding~~] subsection *(2) of this section* the term "daily mutuel handle" shall be understood to mean the total gross amount of money bet or wagered by its patrons by means of pari-mutuel, combination or French pools.

Section 2. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to four and three-fourths percent (4 3/4%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until June 30, *1986* [~~1985~~], tracks with a daily average handle of less than $900,000 shall receive a tax credit amounting to three percent (3%) of money wagered, to be allocated by contractual agreement between the qualified tracks and the horsemen's benevolent and protective association *and if no such agreement exists, the percentage of pari-mutuel handle paid in purses in 1983 shall prevail.* Three-nineteenths (3/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. *From the effective date of this Act until September 15, 1986, any track with a daily average handle of less than nine hundred thousand dollars ($900,000), which experienced an overlap of its racing dates in 1983 with another thoroughbred track, shall be exempt from payment of the tax levied under this subsection, with exception of the amount to be paid to the thoroughbred development fund, and the license tax levied in KRS 137.170, for the period of the overlap should the 1983 overlap of racing dates be continued. Monies retained under this provision shall be allocated in the same manner as the tax credit is allocated.*

(2) An excise tax is imposed on every person, corporation or association which operates a standardbred horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. *An amount equal to one percent (1%)* [~~One-fifth (1/5)~~] of all *pari-mutuel wagering shall be deducted from the* [~~amounts received by reason of such~~] tax *and* [~~shall be~~] set aside by the department of revenue and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770. From July 15, 1982, until June 30, *1986, associations conducting a harness race meet* [~~1985, tracks~~] with a daily average *handle* of less than three

hundred thousand dollars ($300,000) shall receive a tax credit of two percent (2%) of all money wagered, to be allocated to the *associations* [~~tracks~~] for capital improvements, *promotions, including advertising, or purses, as the association shall elect.* Said *expenditures* [~~capital improvements~~] shall be approved by the harness racing commission. *From the effective date of this Act until September 15, 1986, any association with a daily average handle of less than three hundred thousand dollars ($300,000), which experienced an overlap of racing dates in 1983 with a thoroughbred track within fifty (50) miles, shall be exempt from payment of the tax levied in this subsection, with exception of the amount to be paid to the standardbred development fund, for the period of the overlap should the 1983 overlap of racing dates be continued. Monies retained under this provision shall be allocated fifty percent (50%) to purses and fifty percent (50%) to the association.*

Section 3. KRS 230.230 is amended to read as follows:

(1) The governor shall appoint a secretary for the commission for a term *of* [~~not to exceed~~] four (4) years *to run concurrently with commission appointments* and who may be removed in the same manner as a member of the commission. The secretary shall possess the powers and perform the duties imposed upon him by KRS 230.210 to 230.360, and such other duties as the commission may direct or prescribe. The secretary shall keep a full record of all proceedings before the commission and shall preserve at its general office all books, maps, records, documents, licenses and other papers of the commission. All records of the commission shall be open to inspection by the public during regular office hours.

(2) The commission may employ an assistant secretary and stenographers, clerks and other personnel as it may deem necessary to efficiently operate its general office or any branch thereof. The commission shall fix the compensation of such employes. Any member of the commission or the secretary thereof or any employe referred to in this section shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the commission. The compensation of the employes referred to in this section, together with reimbursement of expenses incurred by such employes, a member of the commission or the secretary thereof, shall be paid from commission funds.

Section 4. KRS 230.265 is amended to read as follows:

(1) There is hereby created a panel, to be known as the Kentucky equine drug research council, to advise the commission on the conduct of equine drug research and testing commissioned by the state racing commission. The council shall consist of *eight (8)* [~~seven (7)~~] members *appointed by the governor. The governor shall appoint one (1)*[~~: a~~] veterinarian *from a list of three (3) submitted* [~~appointed~~] by the Kentucky Association of Equine Veterinarians, *one (1)* [~~a~~] horseman *from a list of three (3) submitted* [~~appointed~~] by the Kentucky division of the Horsemen's Benevolent and Protective Association, *one (1)* [~~a~~] pharmacologist *from a list of three (3) submitted* [~~appointed~~] by the University of Kentucky, *one (1)* [~~a~~] thoroughbred breeder *from a list of three (3) submitted* [~~appointed~~] by the Kentucky Thoroughbred Owners and Breeders, Inc., *one (1)* [~~a~~] legislator *from a list of three (3) submitted* [~~appointed~~] by the legislative research commission, *one (1)* [~~a~~] representative of a licensed racing association *chosen by the governor, one (1) member of the harness racing commission from a list of three (3) submitted by the chairman of the harness racing commission,* and *one (1)* [~~a~~] member of the state racing commission, *from a list of three (3) submitted* [~~appointed~~] by the chairman of the state racing commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky equine drug research council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the [~~1984~~] general assembly any needed changes regarding the regulation of drugs in thoroughbred racing in the Commonwealth of Kentucky.

(3) The commission shall receive one-tenth of one percent (.1%) of the total amount wagered in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing drug research and testing research in Kentucky, which shall be in addition to any funds appropriated to the commission for such purposes in the executive budget.

Section 5. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct thoroughbred racing and Appaloosa racing at a thoroughbred race meeting within the Commonwealth of Kentucky during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by rule require.

(2) The commission shall as soon as practicable, but in no event later than March 1 in any calendar year award dates for racing in the Commonwealth during the year. In the event scheduled racing is canceled by reason of flood, fire, or inclement weather, the commission may award after March 1 additional racing dates to make up for those dates canceled by such flood, fire, or inclement weather. The commission may issue such license to conduct a thoroughbred race meeting to any association making the aforesaid application

if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under KRS 230.210 to 230.360 shall specify among other things the name of the person to whom issued, the address and location of the track where the thoroughbred race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; *provided, however, that no track which is granted overlapping dates with another thoroughbred or harness racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.*

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a thoroughbred race meeting at any track not specified therein. However, if the track specified becomes unsuitable for thoroughbred racing or Appaloosa racing because of flood, fire or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) Thoroughbred racing dates may be awarded and licenses issued authorizing thoroughbred racing and Appaloosa racing at a thoroughbred race meeting on any day of the year. Thoroughbred racing or Appaloosa racing at thoroughbred race meetings shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with thoroughbred racing or Appaloosa racing at a thoroughbred race meeting or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(7) Every thoroughbred race not licensed under this section or Appaloosa race not licensed by this section or KRS 230.410 to 230.447 is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

The Committee Amendment to **HB 684** is as follows:

Amend printed copy of **HB 684** on page 3, delete lines 9 and 10 in their entirety and substitute in lieu thereof: "*An amount equal to three quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax*", and on line 11 delete "of revenue" and "shall be".

The Committee on Labor and Industry reported **HB 473** with Committee Substitute attached thereto, **HB 499** with Committee Amendment attached thereto, **HB 694, HB 699,** and **HB 992** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 473, AN ACT relating to deductions from wages of employes and to interest on monetary awards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.060 is amended to read as follows:

(1) For any wage agreement arrived at through collective bargaining, or pursuant to a wage agreement or statute, no employer shall wilfully with intent to defraud any person, withhold from any employe any part of the wage agreed upon, provided however, that deductions for the following may not be so authorized or collected:

(a) Fines;

(b) Cash shortages in a common money till, cash box or register used by two (2) or more persons;

(c) Breakage;

(d) Losses due to acceptance by an employe of checks which are subsequently dishonored if such employe is given discretion to accept or reject any check; or

(e) Losses due to defective or faulty workmanship, lost or stolen property, damage to property, default of customer credit or nonpayment for goods or services received by the customer if such losses are not attributable to employe's wilful or intentional disregard of employer's interest. [~~No employer shall withhold from any employe any part of the wage agreed upon.~~]

(2) This section shall not make it unlawful for an employer to withhold or divert any portion of an employe's wage when the employer is authorized to do so by local, state or federal law or when a deduction is expressly authorized in writing by the employe to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, nor shall it preclude deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employes or their representative.

SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

In the event of a monetary award, such award shall be calculated, based on the current rate, coinciding with the date of the award, and shall include an interest award equal to eight percent (8%) of the total monetary award.

The Committee Substitute to **HB 473** is as follows:

HB 473, AN ACT relating to deductions from wages of employes and to interest on monetary awards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.060 is amended to read as follows:

(1) No employer shall withhold from any employe any part of the wage agreed upon. This section shall not make it unlawful for an employer to withhold or divert any portion of an employe's wage when the employer is authorized to do so by local, state or federal law or when a deduction is expressly authorized in writing by the employe to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, nor shall it preclude deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employes or their representative.

(2) Notwithstanding the provisions of subsection (1) of this section, no employer shall deduct the following from the wages of employes:

(a) Fines;

(b) Cash shortages in a common money till, cash box or register used by two (2) or more persons;

(c) Breakage;

(d) Losses due to acceptance by an employe of checks which are subsequently dishonored if such employe is given discretion to accept or reject any check; or

(e) Losses due to defective or faulty workmanship, lost or stolen property, damage to property, default of customer credit or nonpayment for goods or services received by the customer if such losses are not attributable to employe's wilful or intentional disregard of employer's interest.

SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

In the event of a monetary award, such award shall be calculated, based on the current rate, coinciding with the date of the award, and shall include an interest award equal to eight percent (8%) of the total monetary award.

HB 499, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.150 is amended to read as follows:

Whenever compensation has been paid for not less than six months, thereafter, on the application of *either party, upon notice to the other party,* [~~all parties~~] in any case where the board determines that it will be for the best interests of *either party* [~~all parties~~] and will not subject the employer or his insurer to an undue risk of overpayment, future payments of compensation or any part thereof may be commuted to a lump sum of an amount which will equal the total sum of the probable future payments so commuted, discounted at four percent true discount compounded annually on each payment. Upon payment of such lump sum all liability for the payments therein commuted shall cease.

The Committee Amendment No. 1 to **HB 499** is as follows:

Amend printed copy of **HB 499** on page 1, line 12, after the word "at" by adding the following: "a *mutually agreeable*"

On page 1, line 12, by bracketing and striking through the following: "four percent true"

HB 694, AN ACT relating to skills training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Any employer who is awarded a contract for construction under this chapter shall establish and maintain an approved apprenticeship or on-the-job training program in accordance with the provisions of KRS Chapter 343.

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

Any employer who is awarded a contract for the construction or reconstruction of roads under this chapter shall establish and maintain an approved apprenticeship or on-the-job training program in accordance with the provisions of KRS Chapter 343.

Section 3. KRS 343.080 is amended to read as follows:

Nothing in this chapter or in any apprenticeship or on-the-job training agreement approved under this chapter shall operate to invalidate any apprenticeship or on-the-job training provision in any collective agreement between employers and employes setting up higher standards; *and, except as provided in KRS Chapters 45A and 176,* [~~provided, that~~] none of the terms or provisions of this chapter shall apply to any person, firm, corporation or craft unless, such person, firm, corporation or craft voluntarily elects that the terms and provisions of this chapter shall apply.

HB 699, AN ACT relating to collective bargaining for fire fighters and law enforcement officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 345.010 is amended to read as follows:

When used in this chapter:

(1) "Public employer" means *any county, urban-county or city government within the Commonwealth* [~~a city containing a population of at least 300,000 as determined by the last federal census or any city that petitions the commissioner of labor to be included by this chapter~~].

(2) "Fire fighter" means an employe of the public employer engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;

(3) *"Law enforcement officer" means a full-time member of a lawfully organized police department of county, urban-county or city government who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky state police, any elected officer, sheriff, deputy sheriff, constable, deputy constable, district detective, deputy district detective, special local police officer, auxiliary police officer, or any other peace officer not specifically authorized by this Act;*

(4) "Labor organization" means*:*

(a) Any chartered labor organization of any kind in which fire fighters participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rate of pay, hours of employment or conditions of employment; *or*

(b) Any fraternal order in which law enforcement officers participate and which, as one of its functions, deals with employers concerning grievances, labor disputes, wages, rate of pay, hours of

employment or conditions of employment.

(5)[~~(4)~~] "Exclusive representative" means the labor organization which has been designated by the state labor relations board as the representative of the majority of fire fighters *or law enforcement officers* in appropriate units or has been so recognized by the public employer;

(6)[~~(5)~~] "Board" means the state labor relations board;

(7)[~~(6)~~] "Person" includes one or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(8)[~~(7)~~] "Commissioner" means the commissioner of labor of the Commonwealth of Kentucky.

Section 2. KRS 345.020 is amended to read as follows:

(1) Whereas, the denial by some public employers of the right of fire fighters *or law enforcement officers* to organize and the refusal by such employers to accept the procedure of collective bargaining leads to various forms of strife and unrest, with the consequent effect of obstructing public business. Unresolved disputes in the public service are injurious to the public, the governmental agencies involved, and the fire fighters *or law enforcement officers.*

(2) Whereas, experience has proved that protection by law of the right of public employes to organize and bargain collectively safeguards the public business from injury, impairment, or interruptions, and promotes public business by removing certain recognized sources of strife and unrest, by encouraging practices fundamental to the friendly adjustment of disputes arising out of differences as to wages, hours, or other working conditions, and by creating equality of bargaining power between employers and employes.

(3) Whereas, it is hereby declared to be the policy of the State of Kentucky to eliminate the causes of certain substantial obstructions to public business and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by fire fighters *and law enforcement officers* of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Section 3. KRS 345.030 is amended to read as follows:

(1) Fire fighters *and law enforcement officers* of a *public employer* [~~city containing a population of at least 300,000 as determined by the federal census~~] shall have, and shall be protected in the exercise of, the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint or coercion.

(2) Labor organizations designated by the state board of labor relations as the representative of the majority of fire fighters *or law enforcement officers* in an appropriate unit or recognized by a public employer as the representative of the majority of employes in an appropriate unit shall be the exclusive representative for the employes of such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours and other conditions of employment.

(3) Labor organizations recognized by a public employer as the exclusive representative or so designated in accordance with the provisions of this chapter shall be responsible for representing the interest of all fire fighters *or law enforcement officers* in the unit without discrimination.

Section 4. KRS 345.040 is amended to read as follows:

The public employer and such labor organization as has been designated as exclusive representative of fire fighters *or law enforcement officers* in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively as set forth in subsection (3) of KRS 345.050.

Section 5. KRS 345.050 is amended to read as follows:

(1) Public employers, their representatives or their agents are prohibited from:

(a) Interfering, restraining or coercing fire fighters *or law enforcement officers* in the exercise of the rights guaranteed in KRS 345.030;

(b) Dominating or interfering with the formation, existence or administration of any labor organization;

(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing in this chapter, or in any other statute of this state, shall preclude a public employer from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or on the effective date of such agreement, whichever is the later;

(d) Discharging or otherwise discriminating against an employe because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employes in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations or their agents are prohibited from:

(a) Restraining or coercing:

1. Fire fighters *or law enforcement officers* in the exercise of the right guaranteed in subsection (1) of KRS 345.030, and

2. A public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(b) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions of this chapter as the exclusive representative of fire fighters *or law enforcement officers* in an appropriate unit.

(3) For the purposes of this chapter, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Section 6. KRS 345.060 is amended to read as follows:

(1) Whenever in accordance with such regulations and as may be prescribed by the State Labor Relations Board a petition has been filed:

(a) By a fire fighter *or law enforcement officer* or group of fire fighters *or law enforcement officers* or any labor organization acting in behalf of *thirty* percent (30%) of the employes who have signed union affiliation cards *or petitions* and the *labor organization* [~~union~~] showing proof of representation:

1. Wish to be represented for collective bargaining by a labor organization as exclusive representative, or

2. Assert that the labor organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employes in the unit; or

(b) By the public employer alleging that one or more labor organizations has presented to it a claim to be recognized as a representative of the majority of fire fighters *or law enforcement officers* in an appropriate unit; the board shall investigate such petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the board finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the fire fighters *or law enforcement officers* desire to be represented and shall certify the result thereof.

(2) The board shall decide in each case, in order to assure fire fighters *or law enforcement officers* the fullest freedom in exercising the rights guaranteed by this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the fire fighters *or law enforcement officers* involved, the history of collective bargaining, and the desires of the fire fighters *or law enforcement officers.*

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve-month period a valid election has been held. The board shall determine who is eligible to vote in the election and shall establish rules governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for the selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the board as exclusive representative of all the fire fighters *or law enforcement officers* in the unit.

(4) Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by a public agency by mutual consent.

(5) No election shall be directed by the board in any bargaining unit where there is in force and effect a valid collective bargaining agreement. Provided, however, no collective bargaining agreement shall bar an election upon the petition of persons not parties thereto where more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.

Section 7. KRS 345.070 is amended to read as follows:

Violations of the provisions of KRS 345.050 shall be deemed to be unfair labor practices remedial by the board in the following manner.

(1) Whenever it is charged by a public employer or a labor organization that any person has engaged in or is engaging in any such unfair labor practices, the board, or any agent designated by the board for such purposes, shall issue and cause to be served upon the person a copy of the charges and a notice of hearing before the board or a member thereof, or before a designated agent, at a place therein fixed, not less than five (5) days after serving of the copy of the charges by the board. Any charge may be amended by the charging party, at any time prior to the issuance of an order based thereon, provided that the charged party is not unfairly prejudiced thereby. The person upon whom the charge is served may file an answer to the charge. The charging party and the person charged shall appear in person or otherwise and give testimony at the place

and time fixed in the notice of hearing. In the discretion of the member or agent conducting the hearing or the board, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing the board shall not be bound by the rules of evidence prevailing in the courts.

(2) The testimony taken by the member, agent or the board shall be reduced to writing and filed with the board. Thereafter the board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the board is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of fire fighters *or law enforcement officers* with or without back pay, as will effectuate the policies of this chapter. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the testimony taken the board is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the board shall state its finding of fact and shall issue an order dismissing the complaint. No order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event, the six-month period shall be computed from the day of his discharge. No order of the board shall require the reinstatement of any individual as a fire fighter *or law enforcement officer* who has been suspended or discharged, or the payment to him of any back pay, if the individual was suspended or discharged for cause.

(3) Until the record in a case has been filed in court, the board at any time, upon reasonable notice and in such manner as it deems proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

(4) The board or the charging party may petition for the enforcement of the order and for appropriate temporary relief or restraining order, and shall file in the circuit court for the county in which the violation occurred, the record in the proceedings. Upon the filing of the petition, the circuit court shall cause notice thereof to be served upon the charged party, and thereupon shall have jurisdiction of the proceeding and shall grant such temporary or permanent relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. No objection that has not been urged before the board, its member or agent, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party applies to the circuit court for leave to present additional evidence and shows to the satisfaction of the circuit court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the board, its member or agent, the court may order the additional evidence to be taken before the board, its member or agent, and to be made a part of the record. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record (with it) the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Court of Appeals in accordance with the general court rules.

(5) Any person aggrieved by a final order of the board granting or dénying in whole or in part the relief sought may obtain a review of such order in the court by filing in the circuit court a complaint praying that the order of the board be modified or set aside, with copy of the complaint filed with the board, and thereupon the aggrieved party shall file in the court the record in the proceeding, certified by the board. Upon the filing of the complaint, the court shall proceed in the same manner as under subsection (4), and shall grant to the board such temporary relief or restraining order as it deems just and proper, enforcing modifying, enforcing as so modified, or setting aside in whole or in part the order of the board. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive.

(6) The commencement of proceedings under subsections (4) and (5) shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(7) Complaints filed under this chapter shall be heard expeditiously by the court to which presented, and shall take precedence over all other civil matters except earlier matters of the same character.

Section 8. KRS 345.090 is amended to read as follows:

Except as hereinafter provided, when a labor organization has been designated in accordance with the provisions hereof as the exclusive representative of fire fighters *or law enforcement officers* in an appropriate unit, the chief executive officer of the political subdivision, whether elected or appointed, or his designated authorized representative or authorized representatives, shall represent the public employer in collective bargaining with such employe organization.

Section 9. KRS 345.100 is amended to read as follows:

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the public employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this chapter and signed by the chief executive officer of the political subdivision or his representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between a political subdivision and a labor organization provided by this chapter shall be the exclusive method of making a valid agreement for fire fighters *or law enforcement officers* represented by a labor organization.

(3) Suits for violation of agreements between a public employer and a labor organization representing fire fighters *or law enforcement officers* may be brought by the parties to such agreement in the circuit court of the county of the employer or in cases where the state is the employer in the Franklin Circuit Court.

Section 10. KRS 345.110 is amended to read as follows:

Upon the written authorization of any fire fighters *or law enforcement officers* within a bargaining unit, the public employer shall deduct from the payroll of the public employe the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall deliver the same to the treasurer of the exclusive bargaining representative.

Section 11. KRS 345.120 is amended to read as follows:

(1) There is hereby created and established a state labor relations board to assist in resolving disputes between public employers and fire fighters *or law enforcement officers* or their labor organization which shall be composed of three (3) members appointed by the governor, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. The governor shall designate one (1) member to serve as chairman of the board. Thereafter, upon the expiration of the term of any member, members shall be appointed for four-year terms by the governor.

(2) Each member of the board shall have been an elector in this state for at least one (1) year next preceding his appointment. Any member may be removed by the governor for cause, shown in a public hearing after the accused has been given a copy of the charges made and has had an opportunity to answer such charges. The governor shall fill any vacancy by appointment for the unexpired term. No member shall receive a salary but each member shall be paid fifty dollars ($50) and expenses for each day during which he is engaged in the duties of the board. The board is authorized to hold hearings at any place in this state. Any and all expenses incurred by the labor relations board shall be shared by all parties concerned in the dispute.

(3) The board shall appoint such employes as may be necessary to carry out the work of the board. All files, records and documents accumulated by the board shall be kept in offices provided by the board. All decisions shall be made by a majority of the board.

(4) To accomplish the objectives and to carry out the duties prescribed by this chapter, the board may subpoena witnesses, issue subpoenas to require the production of books, papers, records and documents which may be needed as evidence in any matter under inquiry, and may administer oaths and affirmations.

(5) In case of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place, upon application by the board may issue an order requiring such person to appear before the board, any member or agent, to produce evidence or give testimony about the matter under investigation. A failure to obey such order may be punished by the court as a contempt.

(6) Any subpoena, notice of hearing or other process or notice of the board issued under the provisions of this chapter may be served personally, by certified mail, return receipt requested or by leaving a copy at the principal office or place of residence of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service is proof of service and a returned post-office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of this chapter may be served in the county wherein the persons required to be served reside or may be found.

(7) The board shall adopt, promulgate, amend or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this chapter. Public hearings shall be held by the board on any proposed rule or regulation of general applicability designed to implement, interpret or prescribe policy, procedure or practice requirements under the provisions of this chapter and on any proposed change in an existing rule or regulation. Reasonable notice shall be given prior to such hearings, which shall include the time, place and nature of such hearing and also the terms or substance of the proposed rule or regulation or the changes of such rule or regulation.

(8) The board shall be attached to the department of labor for administrative purposes.

Section 12. KRS 345.130 is amended to read as follows:

No fire fighter *or law enforcement officer* shall engage in, and no fire fighter *or law enforcement officer* labor organization shall sponsor or condone any strike.

HB 992, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) Any interest required to be paid on advances under Title XII of the Social Security Act shall be paid in a timely manner and shall not be paid directly or indirectly (by an equivalent reduction in unemployment contributions or otherwise) by the state unemployment insurance fund.

(2) Such interest shall be paid by the penalty and interest account as required by KRS 341.295.

(3) In the event there are insufficient funds in the penalty and interest account to pay the interest on such advances, subject employers shall be assessed a surcharge to be used for payment of the remainder of the interest owed in the manner and amount as provided by Section 3 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the state treasury a special fund for unemployment insurance known as the interest payment fund which shall be administered separate and apart from all public money or funds of the state. The fund shall consist of all monies derived from the surcharge and interest authorized pursuant to Section 3 of this Act.

(2) The unemployment insurance interest payment fund shall be used solely for the purpose of payment of interest on advances under Title XII of the Social Security Act received from the United States department of labor in support of the unemployment insurance programs of the Commonwealth. The secretary shall have full power, authority and jurisdiction over the fund, including all money, property and securities belonging thereto, except where specified otherwise in this Act, and he shall perform any act necessary or convenient in the administration of the fund consistent with this section.

(3) Any money collected for the purpose of paying interest on advances under Title XII of the Social Security Act under Section 3 of this Act shall be invested at interest in banks or other interest-bearing obligations of the United States of America. Investments shall at all times be made so that all the assets of the unemployment insurance interest payment fund shall always be convertible into cash when needed for the payment of interest on advances under Title XII of the Social Security Act. All interest income received under this section shall be credited to the interest payment fund. The state treasurer shall dispose of securities or other property belonging to the unemployment insurance interest payment fund only under the direction of the secretary and the secretary of the finance and administration cabinet.

(4) Any balance of money remaining in the unemployment insurance interest payment fund after all interest due and owing on advances under Title XII of the Social Security Act has been paid shall be deposited with the secretary of the federal treasury to the credit of this state's unemployment trust fund for the payment of benefits.

SECTION 3. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a surcharge upon subject employers for any year in which there are insufficient funds in the penalty and interest account as provided in KRS 341.295 for the payment of interest due on advances under Title XII of the Social Security Act received from the United States department of labor in support of the unemployment insurance program of the Commonwealth. The surcharge shall be equal to the percentage derived from the benefits charged the individual reserve account of the subject employer for the year preceding the year in which such surcharge becomes payable divided by the total benefits charged the Kentucky employers' reserve accounts for the year preceding the year in which such surcharge becomes payable, times the difference of the annual interest payment minus the sum of seventy-five percent (75%) of the cash balance of the penalty and interest account plus the cash balance, if any, of the interest payment fund, except in no case shall an employer's surcharge be less than two dollars ($2.00). The secretary shall notify each employer of the dollar amount of its surcharge, if any, by July 1. Such amount shall be due and payable on July 31 and shall be in addition to any contributions due under any other section of this chapter.

(2) A surcharge unpaid on the date upon which it is due and payable, pursuant to subsection (1) of this section, shall be subject to interest at the rate of one and one-half percent (1 1/2%) per month or fraction thereof, not to exceed sixty percent (60%) of the amount of such surcharge, from and after such date until payment is received by the cabinet, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (3) of this section. These interest monies shall be paid into the unemployment insurance interest payment fund.

(3) If, after due notice, any subject employer defaults in any payment of surcharge or interest thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest

possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workmen's compensation law.

(4) At or after the commencement of an action under subsection (3) of this section attachment may be had against the property of the liable subject employer for such surcharge and interest without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(5) An action for the recovery of the surcharge or interest thereon under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five (5) years from the due date of such surcharge.

Section 4. KRS 341.295 is amended to read as follows:

(1) All fines, penalties and interest on delinquent contributions collected under KRS 341.300 shall be credited to the unemployment compensation administration fund to be used for *the payment of interest on advances under Title XII of the Social Security Act and for* the administration of this chapter. The state treasurer shall maintain a separate record of all money received for the unemployment compensation administration fund under this section. This money shall not be expended or available for expenditure in any manner that would permit its substitution for, or a corresponding reduction in, federal funds that would be available in its absence to finance expenditures for the administration of this chapter.

(2) But nothing in this chapter shall prevent this money from being used as a revolving fund to cover necessary and proper expenditures for which federal funds have been requested but not received, subject to the charging of such expenditures against such funds when received, or to supplement federal funds which are, in the opinion of the secretary, insufficient to properly administer this chapter*; provided, no more than twenty-five percent (25%) of the balance of this account may be used in any year for the purposes authorized under this subsection if interest on advances under Title XII of the Social Security Act is due and owing.*

(3) If interest on advances under Title XII of the Social Security Act is not due and owing the secretary may also authorize to be charged against such money any expenditures he deems proper and desirable for the administration of this chapter and replace any money necessary under the provisions of KRS 341.610, if no other funds are available or can properly be used to finance such expenditures. The money heretofore collected and credited to the unemployment compensation contingent fund shall be transferred to the unemployment compensation administration fund and shall be available for expenditure under the provisions of this section.

Section 5. KRS 341.490 is amended to read as follows:

(1) There shall be a special fund known as the unemployment insurance fund which shall be administered separate and apart from all public money or funds of this state. This fund shall consist of:

(a) All contributions, payments in lieu of contributions, and money collected under this chapter, except fines, penalties, and interest on delinquent contributions collected under KRS 341.300, *and except surcharges and interest on delinquent surcharges collected under Section 3 of this Act*;

(b) Interest earned upon any money in the fund;

(c) Any property or securities acquired through use of money belonging to the fund;

(d) All earnings of such property or securities;

(e) All money received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the Social Security Act as amended;

(f) All money credited to the account of this state in the unemployment trust fund in accordance with section 903 of the Social Security Act as amended; and

(g) All money received from the Federal Government as reimbursement, pursuant to section 204 of the Federal-State Extended Unemployment Compensation Act of 1970.

(2) All monies in the fund shall be commingled and undivided.

(3) Subject to the provisions of this chapter, the secretary may have full power, authority and jurisdiction over the fund, including all money and property or securities belonging thereto, and may perform any act necessary or convenient in the administration thereof consistent with this chapter.

The Committee Amendment No. 1 to **HB 992** is as follows:

Amend printed copy of **HB 992,** on page 3, line 15, after the "*(1)*", by inserting before the word "*There*" the following: "*For calendar years 1984, 1985, and 1986,*"

The Committee on Natural Resources and Environment reported **HB 868** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 868, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.032 is amended to read as follows:

(1) In case of refusal to obey a subpoena issued to any person, any circuit court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to appear before the department, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(2) Any person aggrieved by a final order of the department may obtain a review of the order by filing in the Franklin circuit court, within thirty (30) days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part, *provided that a surety on a performance bond shall not file such petition until it has complied with subsection (3) of this section.* A copy of the petition shall be forthwith served upon the department, and thereupon the department shall certify and file in court a copy of the record before the department, including therein all pleadings, orders, documentary exhibits and the stenographic transcript of the testimony taken before the department. When these have been filed, the court shall have exclusive jurisdiction to affirm, modify, enforce or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the department or there were reasonable grounds for failure to do so. The findings of the department as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearings before the department, the court may order that additional evidence be taken before the department in such manner and upon such condition as the court may consider proper. The department may modify its findings as to the facts, by reason of the additional evidence so taken; and it shall file any modified or new findings with the court, which if supported by substantial evidence shall be conclusive, and any recommendation for the modification or setting aside of the original order. The commencement of the proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the department's order. An appeal may be taken from the judgment of the Franklin circuit court to the court of appeals on the same terms and conditions as an appeal is taken in any civil action.

(3) Where the cabinet has ordered forfeiture of a performance bond, the surety shall forward to the cabinet by certified mail a cashier's check for the required amount within seven (7) business days from the effective date of the order. The cabinet shall establish an interest-bearing escrow account and shall deposit therein the full amount of the forfeiture rendered by the surety. The amount shall continue to be held by the cabinet until completion of judicial reveiw as authorized in subsection (2) of this section. If the final decision following the review reverses the order of the secretary of the cabinet, the cabinet shall within thirty (30) days of receipt of such order, refund to the surety the appropriate amount plus all interest accrued from the date of deposit to the date of the final order.

Section 2. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided herein, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for said violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section; provided, however, that any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for such abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which such violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The department shall develop a method for calculating monetary penalties and shall promulgate it as a regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the department mails its proposed penalty assessment, may waive the use of such method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. Such penalties shall be recoverable in an action brought in the

name of the Commonwealth of Kentucky by the department's office of general counsel, or upon the secretary's request, by the attorney general. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the department or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto. All sums recovered shall be placed in the state treasury.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the department pursuant to KRS 350.057 or regulations promulgated pursuant thereto, or any person who engages in mining operations, without proper authorization as required by the department pursuant to KRS 350.029 or regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing such violations as hereinafter provided. Each day shall constitute a separate violation. However, the penalties provided for in subsection (1) of this section shall apply in lieu of the penalties provided for in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) It shall be the duty of the department's office of general counsel or, upon the secretary's request, of the attorney general to bring an action for the recovery of the penalties herein provided for and to bring an action for a restraining order, temporary or permanent injunction, against any operator or other person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the department or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto.

(4) Any person who shall knowingly and willfully violate any of the provisions of this chapter, except as provided in subsection (5) or any determination or order promulgated pursuant to the sections of this chapter which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which such violation occurs may constitute a separate offense.

(5) Any person who, in violation of KRS 350.060, willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the department or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the department pursuant to KRS 350.057 or regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in mining operations without proper authorization as required by the department pursuant to KRS 350.029 or regulations promulgated pursuant thereto, with the intent to violate such laws shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the department, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who shall willfully resist, prevent, impede, or interfere with the secretary or other personnel of the department in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) Whenever a corporate permittee violates any provision of this chapter or regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Any person found in violation of KRS 350.060(11) shall be fined not more than five hundred dollars ($500) for each violation, nor less than fifty dollars ($50.00).

(11) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky department of insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

The Committee on Counties and Special Districts reported **HB 814**, with Committee Amendment attached thereto, **HB 886**, and **HCR 96** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 814, AN ACT relating to fiscal courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;

(b) Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

(c) Regulate and control the fiscal affairs of the county;

(d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, and have the accounts of all county officers audited, when necessary; employ a competent person to keep such accounts and records, and make such audits, and pay such person a reasonable compensation for such services;

(e) Exercise all the corporate powers of the county unless otherwise provided by law;

(f) Establish all appointive offices, *establish* [~~set~~] the duties of those offices, and *make* [~~approve~~] all appointments to those offices;

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 through 68.360, for purposes required by law;

(b) As needed, cause the construction, operation and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) *Prepare and* adopt an administrative code *to be reviewed and revised periodically as needed, incorporating details of administrative procedure for the operation of the county* [~~for the county~~];

(d) Provide for the incarceration of prisoners according to the provisions of KRS 441.006.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

The Committee on Counties and Special Districts reported **HB 814**, with Committee Amendment attached thereto, **HB 886**, and **HCR 96** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

The Committee Amendment No. 1 to **HB 814** is as follows:

Amend printed copy of **HB 814** on page 2, line 6 by deleting “*establish*”;

On page 2, line 7 by deleting the strike through and the brackets before and after “set”;

On page 2, line 7 by deleting “*make*” and by deleting the strike through and the brackets before and after “approve”;

On page 2, line 18 by deleting “*Prepared and*”;

On page 2, line 19 by deleting “*periodically*” and by inserting “*annually*” in lieu thereof.

HB 886, AN ACT relating to jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.017 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the cabinet shall

maintain a local corrections training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.011 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the cabinet concerning the training needs of jailers and jail personnel.

(2) Beginning in August, 1982 each jailer shall receive an expense allowance to help defray the costs of his [~~and his staff's~~] participation in the local corrections training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the state treasury, provided, however, that such payments shall be discontinued if the jailer fails to complete basic training within one (1) year of taking office. Thereafter, expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of such training.

(3) The allowance authorized in subsection (2) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

HCR 96, A CONCURRENT RESOLUTION requiring a study of motor vehicle licensing and usage tax collection.

WHEREAS, recent audits by the auditor of public accounts of two county clerks who died in office revealed large debts to the state; and

WHEREAS, the debts of the two county clerks were, in great measure, shortages in fees and taxes collected upon motor vehicle registration or transfer; and

WHEREAS, the county clerks would like to be audited on a timely basis so they will know at the end of each year if they have outstanding debts; and

WHEREAS, the transportation cabinet has the statutory responsibility to audit county clerks for their motor vehicle registration and transfer responsibilities; and

WHEREAS, the transportation cabinet has not maintained the staff necessary to audit the county clerks on a timely basis, and was at the beginning of the current administration approximately eighteen man years behind in its audit responsibilities; and

WHEREAS, failure to account accurately for documents, plates, fees and taxes related to motor vehicle registration is potentially very costly to the state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of the inventory control of documents, decals, plates and other items related to the registration and transfer of motor vehicles, and of fee and tax payments related to motor vehicle registration and transfer. The study shall include a review of the audit practices of the transportation cabinet, and the effectiveness of the automated vehicle information system in accounting for motor vehicle registration, transfer and payment of associated fees and taxes.

Section 2. A report and recommendations shall be presented to the Legislative Research Commission no later than July 1, 1985.

Section 3. Staff services to be used in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

Calendar

HB 587, HB 603, HB 655, HB 761, HB 809, HB 826, HB 838, HB 860, HB 885, HB 937, SB 148, SB 176, HB 557, HB 738, HB 807, HB 808, SB 46, SB 215, HB 564, HB 591, HB 592, HB 607, HB 618, HB 746, HB 769, HB 771, SB 226, SB 230, HB 221, HB 777, SB 101, SB 20, SB 141, HB 544, HB 729, HB 895, and HB 821 taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 495, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 495**. Agreed.

Representative Donnermeyer moved that Floor Amendment No. 1 to **HB 495** be adopted. Agreed.

Representative Donnermeyer moved that **HB 495**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 60-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, L. Clark, P. Clark, Clarke, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Gray, Hancock, Handy, Heleringer, Hines, Johnson, R. Jones, T. Jones, Kenton, Kidd, LeMaster, Little, Long, McElroy, Moberly, Moore, Nett, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, Worthington, Yates. Nays 31-Barrows, Burnette, Caldwell, Cline, Dawahare, Ellington, Ford, Foster, Freibert, Fryman, Guenthner, Harper, Head, Holbrook, Holloway, Layman, Lefevers, Lile, List, Maggard, McBee, McNutt, Meyer, Noe, Patrick, Reinhardt, Robinson, F. Smith, Todd, Turner, White.

HB 495, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 495**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 183, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **SB 183** be passed.

On the roll call the vote was yeas 95-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 183 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 183** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 108 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 108** be passed.

On the roll call the vote was yeas 81-Arnold, Barrows, Bendl, Bennett, Blandford, Brinkley, Bronger, Burch, Caldwell, Clapp, P. Clark, Clarke, Craddock, Crupper, Curd, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Guenthner, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 14-Blevins, Brown, Bruce, Burnette, L. Clark, Cline, Cowan, Cyrus, Dawahare, Hancock, Heleringer, Mann, Morris, Pearman.

SB 108 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 108** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 24** had been examined and found correctly enrolled. Said Bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-10:32 a.m.)

Orders of the Day (continued)

SB 7 taken from the Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **SB 7** be passed.

Representative T. Jones moved that **SB 7** be laid on the table. Rejected.

On the roll call the vote was yeas 55-Arnold, Blandford, Brinkley, Bronger, Burnette, Caldwell, Clapp, P. Clark, Cline, Crupper, Curd, Dawahare, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Holbrook, Holloway, R. Jones, Layman, Lile, List, Maggard, McBee, Meyer, Morris, Noland, O'Brien, Patrick, Pearman, Petty, Priddy, Rapier, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stumbo, Todd, Turner, Worthington, Yates. Nays 40-Barrows, Bennett, Blevins, Brown, Bruce, Burch, L. Clark, Clarke, Cowan, Craddock, Cyrus, Deskins, Donnermeyer, Dunn, Freibert, Harper, Hines, Johnson, T. Jones, Kenton, Kidd, Lefevers, Little, Long, Mann, McElroy, McNutt, Moberly, Nett, Noe, Overstreet, Perkins, Reinhardt, F. Smith, Stone, Thomas, Thomason, Van Horn, White, Williams.

SB 7 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 7** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 200, HB 446, HB 478,** and **HB 583** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time-10:52 a.m.)

HB 200, HB 446, HB 478, and **HB 583** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 671 with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved the adoption of the Floor Amendment No. 1 to **HB 671**. Agreed.

Representative R. Jones moved that **HB 671**, as amended, be passed.

On the roll call the vote was yeas 89-Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 3-P. Clark, Priddy, Williams.

HB 671, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 671**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 539 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 539** be passed.

On the roll call the vote was yeas 89-Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, Little, Maggard, Mann, McBee, McNutt, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 3-Hancock, R. Jones, Long.

HB 539 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 539** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 209 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **SB 209** be passed.

On the roll call the vote was yeas 89-Arnold, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 209 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 209** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative LeMaster moved that **HB 620** be recommitted to the Committee on Counties and Special Districts. Agreed.

SB 239 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members

elected.

Representative LeMaster moved that **SB 239** be passed.

On the roll call the vote was yeas 93-Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

SB 239 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 239** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 76, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Floor Amendment No. 1 to **HB 76.** Agreed.

Representative Pearman moved that **HB 76,** as amended, be passed.

On the roll call the vote was yeas 70-Arnold, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, Kidd, Layman, Lefevers, LeMaster, Lile, List, Maggard, McElroy, Morris, Nett, Noe, Noland, O'Brien, Patrick, Pearman, Perkins, Petty, Priddy, Rattliff, Reinhardt, Richards, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomas, Todd, Turner, Van Horn, White, Yates. Nays 16-Barrows, Clarke, Cowan, Cyrus, Deskins, Hines, Little, Long, Mann, McBee, McNutt, Meyer, Moberly, Rapier, B. Richardson, Thomason.

HB 76, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 76,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 510, with Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cowan moved the adoption of the Floor Amendment No. 1 to **HB 510.** Agreed.

Representative Cowan moved that **HB 510,** as amended, be passed.

On the roll call the vote was yeas 77-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Farrow, Foster, Freibert, Gray, Guenthner, Hancock, Handy, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, Meyer, Moberly, Moore, Morris, Nett, Noe, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Seum, F. Smith, Stone, Stumbo, Thomas, Thomason, Turner, Van Horn, Williams, Worthington, Yates. Nays 12-Bronger, Ellington, Endicott, Ford, Fryman, Gedling, McNutt, Noland, Pearman, B. Richardson, Robinson, B. Smith.

HB 510, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 510,** as amended, was passed be

reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Resolutions and Report of Committees. Agreed.

Introduction of Resolutions

HR 118, by Representative McNutt: A RESOLUTION honoring Mrs. Lilija Purins Macs Murphy.

HR 119, by Representative Cyrus: A RESOLUTION encouraging the Chessie System Railroad to reassess its decision to transfer certain locomotive repair services from the Russell, Kentucky yards.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 980, HB 967, HB 798, SB 292.**

Natural Resources and Environment: **HB 308, HB 692, HB 888, HB 971, HB 991, HB 1015.**

State Government: **HB 464, HCR 110, HR 114.**

Cities: **SB 249, HB 207.**

Judiciary-Criminal: **HB 193, HB 863.**

Appropriations and Revenue: **HB 87, HB 741, SB 74.**

The Clerk announced **HB 165** has been withdrawn from committee consideration by the Committee on Appropriations and Revenue.

Report of Committees

The Committee on State Government reported **HB 280, HB 515, HB 615** with Committee Substitute attached thereto, **HB 706** with Committee Amendment attached thereto, **HB 728, HB 743** with Committee Amendment attached thereto, **HB 760, HB 882,** and **HJR 95** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 280, AN ACT relating to personal service contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.700 is amended to read as follows:
(1) As used in KRS 45.705 to 45.720:
(a) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the legislature, authorized by law to contract for personal services;
(b) "Governmental emergency" means an unforeseen event or set of circumstances which creates an immediate need for services, which is necessary for maintenance of governmental operations or to prevent or minimize injury or damage;
(c) "Subcommittee" means personal service contract review subcommittee;
(d) "Personal service contract" means an agreement whereby an individual, firm, partnership or corporation is to perform certain duties, professional or otherwise for a specified period of time for a price

agreed upon, which are exempted from competitive bidding pursuant to KRS 45.360. This definition does not apply to agreements with public utilities, foster care parents, medicaid providers, individuals performing homemaker services, transit authorities, agreements between a state agency and a state college or university, agreements between a state agency and an area development district, agreements between a state agency and a community action agency, agreements between a state agency and a mental health/mental retardation board, agreements between a state agency and another state agency, [~~and~~] agreements between a state agency and a political subdivision *and agreements between state universities and employers of students in the commonwealth work study program sponsored by the Kentucky higher education assistance authority.*

(2) Compliance with the provisions of KRS 45.705 to 45.720 does not dispense with the requirements of any other law necessary to make the personal service contract valid.

Section 2. Whereas, it is necessary for this Act to become effective prior to the beginning of the spring term of 1984, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

HB 515, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.100 is amended to read as follows:

(1) Procurements, not to exceed an aggregate amount of ten thousand dollars ($10,000) for construction, five thousand dollars ($5,000) for equipment replacement parts purchased by the transportation cabinet, and one thousand dollars ($1,000) for all other purchases by state governmental bodies other than institutions of higher education, *the department of parks* and the finance and administration cabinet, may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet. Procurements not to exceed an aggregate amount of ten thousand dollars ($10,000) for construction and purchases of five thousand dollars ($5,000) by state institutions of higher education, *the department of parks* and the finance and administration cabinet may be made in accordance with small purchase regulations promulgated by the secretary of the finance and administration cabinet.

(2) Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every two (2) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the general assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

HB 615, AN ACT relating to a qualified cash or deferred arrangement for the benefit of employes and officials of the State of Kentucky, as described in Section 401(K)(2) of the Internal Revenue Code.

WHEREAS, it is now possible for public employes to be covered by a deferred compensation program as described in Section 401(K)(2) of the Internal Revenue Code; and

WHEREAS, it is possible for the state to set aside funds intended for employe compensation in a Section 401(K)(2) trust and for the employe to defer taxation on the funds until the time of distribution; and

WHEREAS, if an employe elects to participate in a Section 401(K)(2) plan, amounts set aside can be distributed to the employe or his or her beneficiary upon retirement, death, disability, separation from service, hardship or the attainment of age 59 1/2; and

WHEREAS, the flexibility of a Section 401(K)(2) plan allows the employe to plan for earlier retirement or increased income at the time of normal retirement, and yet allows for a distribution of funds before retirement in the event of emergency;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees of the Kentucky retirement systems is directed to develop and obtain, for the benefit of elected officials and employes of the Commonwealth of Kentucky, a qualified employe plan that includes a qualified cash or deferred arrangement as described in Section 401(K)(2) of the Internal Revenue Code. The plan shall apply only to those officials and employes for whom a centralized payroll processing capability exists. Employes of the Commonwealth shall not mean employes appointed by the governing boards of institutions of public higher education.

(2) The plan shall be administered by the Kentucky retirement systems. Administrative costs shall be funded by a service charge, or out of the proceeds of the trust established, or both.

(3) The plan document for the qualified employe plan shall be kept separate from any plan document for any retirement system administered by the Kentucky retirement systems. Funds of the qualified employe plan may be invested with funds administered by the Kentucky retirement systems, but the funds of the qualified employe plan, including the earnings thereon, shall be accounted for separately from the other funds administered by the Kentucky retirement systems.

The Committee Substitute to **HB 615** is as follows:

HB 615, AN ACT relating to a qualified cash or deferred arrangement for the benefit of employes and officials of the State of Kentucky, as described in Section 401(K)(2) of the Internal Revenue Code.

WHEREAS, it is now possible for public employes to be covered by a deferred compensation program as described in Section 401(K)(2) of the Internal Revenue Code; and

WHEREAS, it is possible for the state to set aside funds intended for employe compensation in a Section 401(K)(2) trust and for the employe to defer taxation on the funds until the time of distribution; and

WHEREAS, if an employe elects to participate in a Section 401(K)(2) plan, amounts set aside can be distributed to the employe or his or her beneficiary upon retirement, death, disability, separation from service, hardship or the attainment of age 59 1/2; and

WHEREAS, the flexibility of a Section 401(K)(2) plan allows the employe to plan for earlier retirement or increased income at the time of normal retirement, and yet allows for a distribution of funds before retirement in the event of emergency;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.250 is amended to read as follows:

(1) Subject to the approval of the board of trustees of the Kentucky state public employes deferred compensation system, the department of finance shall establish a deferred compensation plan for the employes of the state of Kentucky. Participation in such plan shall be by a specific written agreement between such employes and the state and shall provide for the deferral of such amount of compensation as requested by the employe. Participating employes must authorize that such deductions be made from their wages for the purpose of participation in such program. Amounts so deducted shall be deposited in the state treasury to the credit of the trust fund.

(2) The board is directed to develop and obtain, for the benefit of employes, a qualified employe plan that includes a qualified cash or deferred arrangement as described in Section 401(K)(2) of the Internal Revenue Code. The plan shall be in addition to other plans offered by the board, and shall be offered to employes upon receipt of appropriate approval of the internal revenue service or on January 1, 1985, whichever occurs later.

Section 2. KRS 18A.265 is amended to read as follows:

(1) Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employes of this state. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employe. But, any sum so deducted shall not be included in the computation of any income taxes withheld on behalf of any such employe.

(2) The board shall, jointly with the board of trustees of the Kentucky retirement systems, prepare and implement a program for advising employes on coordinating deferred compensation plans and retirement programs in order to achieve their retirement objectives.

Section 3. KRS 18A.245 is amended to read as follows:

(1) The system shall be administered by a board of trustees composed of five (5) members, who shall be as follows:

(a) Commissioner of insurance, ex officio;

(b) Secretary, department of finance, ex officio;

(c) Commissioner of personnel, ex officio;

(d) Two (2) members appointed by the governor of the Commonwealth. *Of these two (2) members, it is recommended that one (1) be the general manager of Kentucky retirement systems.*

(2) The members of the board appointed by the governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the state treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state regulations and standards applicable to state employes.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice-chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The board may, but is not limited to the following actions:

(a) Appoint or contract for the services of an executive secretary as provided in KRS 12.050 and fix his compensation. The executive secretary shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner;

(c) Require such employes as it thinks proper to execute bonds for the faithful performance of their duties;

(d) Establish a system of accounting;

(e) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(f) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 18A.230 to 18A.275.

(8) All employes of said board shall serve during its will and pleasure.

(9) The attorney general, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(10) The board shall prepare an annual financial report showing all receipts, disbursements, assets and liabilities and shall submit a copy to the governor and legislative research commission. All board meetings and records shall be open for inspection by the public.

HB 706, AN ACT relating to the Kentucky historical society.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) Receipts by the Kentucky historical society of gifts, bequests and devises from private persons, corporations, and other non-governmental entities shall be held, deposited, invested and used by the Kentucky historical society under the direction of its executive committee and shall be exempt from the requirements of KRS 41.070. Such receipts shall be deemed to include gifts, bequests and devises heretofore made to the society and separately accounted for by the society under the names of donors as well as gifts, bequests and devises received after the effective date of this Act, and shall also include payments to the Boone day fund and to the Kentucky junior historical society fund, neither of which shall accept any governmental appropriations or grants.

(2) Funds held by the Kentucky historical society as provided in this section shall be audited by an independent certified public accounting firm, at least once each fiscal year, at the expense of the society, which shall be paid for from the fund being audited unless otherwise provided for. A copy of the audit shall be forwarded promptly to the governor as chancellor of the society, who shall file it with the secretary of state.

(3) This section shall not exclude the society from the requirements of KRS 41.070 with respect to any funds received by it which are appropriated from the state treasury, or received by the society other than as a gift, bequest, devise or contribution enumerated in subsection (1) of this Act or to derogate from the status of the society as an independent agency of the Commonwealth otherwise subject to all requirements of state law applicable to such agencies.

The Committee Amendment No. 1 to **HB 706** is as follows:

Amend printed copy of **HB 706** on page 2, line 10, by deleting the word "to".

HB 728, AN ACT relating to the treatment and rehabilitation of alcoholics and persons intoxicated or incapacitated by alcohol and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. Acts, 1982, Chapter 312, Section 14 is amended to read as follows:
All provisions of this Act, except for Section 15, shall become effective July 15, *1986* [~~1984~~].
Section 2. Whereas, 1982 House Bill 370, Acts, 1982, Chapter 312, is scheduled to become effective on July 1, 1984, fourteen (14) days before the normal effective date of other legislation passed at the 1984 Regular Session of the General Assembly, and would create a conflict therewith, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HB 743, AN ACT relating to health care for state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental and health service corporation, which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is qualified under the requirements of the United States department of health, education and welfare except as provided in subsection (2) of this section.

(2) The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more health, hospitalization, medical, major medical and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, *and* major medical [~~and dental~~] insurance or health maintenance organization coverage encompassing all or any class or classes of state employes. All state employes for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside, the state employes may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky health facilities and health services certificate of need and licensure board and issued a certificate of authority by the department of insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employes reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employes, except that the procuring of each is permissive.

(3) *The secretary of the finance and administration cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employes. All state employes for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that either insurance or prepaid dental plan coverage may be made available for state employes, except that the procuring of each is permissive.*

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employe, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage *or prepaid dental plan coverage* over the premium amount contributed by the state or department, board or agency for any other insurance coverage shall be paid by the employe.

(5)[~~(4)~~] If an employe moves his place of residence or employment out of the service area of a health maintenance organization *or of a prepaid dental plan organization*, under which he has elected coverage, into either the service area of another health maintenance organization *or prepaid dental plan organization* or into an area of the state not within a health maintenance organization service area *or prepaid dental plan organization service area*, such employe shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization *or prepaid dental plan organization* into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6)[~~(5)~~] No payment of premium by the state or department, board or agency shall constitute compensation to an insured employe for the purposes of any statute fixing or limiting the compensation of such an employe. Any premium or other expense incurred by the state or department, board or agency shall be considered a proper cost of administration.

(7)[~~(6)~~] The policy or policies may contain such provisions with respect to the class or classes of employes covered, amounts of insurance or coverage for designated classes or groups of employes, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8)[~~(7)~~] The secretary of the finance and administration cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, *prepaid dental plan organization coverage* and health maintenance organization coverage under the provisions of this section.

The Committee Amendment No. 1 to **HB 743** is as follows:

Amend printed copy of **HB 743** on page 3, line 19, by inserting "*dental*" before "*insurance*"; and

On page 3, line 24, by inserting "*dental*" before "*insurance*".

HB 760, AN ACT relating to death benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every full-time police officer, sheriff, or deputy sheriff, who works not less than forty (40) hours per week, elected to office or employed by any county or city or by the state; "fire fighter" means every paid fire fighter or volunteer fire fighter who is employed by or volunteers his services to the state, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. *In the event death benefits are paid under KRS 61.316 to eligible survivors of a volunteer fire fighter, then no benefits shall be paid to those survivors under this section.*

(2) The spouse of any police officer, sheriff, deputy sheriff or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children. If there are no surviving children, the payment shall be made to any dependent parents of the deceased.

(3) *The commission on fire protection personnel standards and education shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer fire fighters, including but not limited to defining when a fire fighter has died in line of duty.*

(4) The justice cabinet shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including but not limited to defining when a police officer has died in line of duty.

(5)[~~(3)~~] The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality.

(6)[~~(4)~~] Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section, shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 2. KRS 61.316 is amended to read as follows:

(1) "Volunteer fire fighter," as used in this section, means any person who is a member of or employed by a volunteer fire department of any county, city, fire district or other organized volunteer fire

department operated and maintained on a nonprofit basis in the interest of health and safety of the inhabitants of the Commonwealth.

(2) The spouse of any volunteer fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the insurance premium surcharge moneys provided in subsection (2) of KRS 136.392. If there is no surviving spouse, the payment shall be made to the surviving children. *If there are no surviving children, the payment shall be made to any dependent parent of the deceased.*

(3) The commission on fire protection personnel standards and education shall be authorized to promulgate and adopt regulations establishing procedures and criteria applicable to the administration of this section including, but not limited to, defining when a fire fighter dies in line of duty.

HB 882, AN ACT relating to the legislative program review and investigations committee and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.905 is amended to read as follows:

(1) There is hereby created a legislative program review and investigations committee which shall be a permanent standing committee of the general assembly, consisting of eight (8) members of the senate, six (6) of whom shall be appointed by the president pro tempore and two (2) of whom shall be appointed by the minority leader of the senate, and eight (8) members of the house of representatives, six (6) of whom shall be appointed by the speaker and two (2) of whom shall be appointed by the minority leader of the house of representatives. At least one (1) appointee by each appointive authority shall be a member of the senate or house standing committee on appropriations and revenue. The appointments shall be made within seven (7) legislative days of the beginning of each [~~regular or~~] organizational session of the general assembly, and the members so appointed shall serve for a term of two (2) years coextensive with the biennium in which the appointment is made. *Members shall be appointed for a term of one (1) year at the 1984 regular session of the general assembly.* Vacancies shall be filled in the same manner as the original appointments, and for the balance of the term of the vacated member.

(2) The committee shall select a chairman and other officers as it may deem necessary from among its membership. *The committee members appointed for a one (1) year term at the 1984 regular session of the general assembly may select a chairman who is a member of the senate or a member of the house of representatives. Thereafter,* the chairman shall serve a term of one (1) year in the biennium in which the committee appointments are made *and* [~~,~~] eligibility for the position of committee chairman shall alternate annually between appointees that are members of the senate and appointees that are members of the house of representatives. A majority of the membership shall constitute a quorum and all actions authorizing an investigation, dropping an investigation, or adopting a final report on any subject under investigation shall require the affirmative vote of a majority of the full committee membership. All other actions of the committee may be undertaken by an affirmative vote of a majority of a quorum of the committee.

(3) When an evaluation or investigation is instituted upon the request of a legislative committee, the chairman and a ranking minority member of that committee shall serve as non-voting ex officio members of the legislative program review and investigations committee during the course of such evaluation or investigation. If the legislative committee that requested the evaluation or investigation is a standing committee of one (1) of the houses of the general assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee that requested the evaluation or investigation is an interim joint committee of the legislative research commission, the ranking minority member shall be:

(a) A minority party member of the house of representatives appointed by the house minority leader, if the chairman of the interim joint committee is a member of the senate; or

(b) A minority party member of the senate appointed by the senate minority leader, if the chairman of the interim joint committee is a member of the house of representatives.

(4) Each regular and ex officio member of the legislative program review and investigations committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the legislative research commission under KRS 7.090(2).

Section 2. Whereas, Section 1 of this Act calls for the prompt appointment of members during the general assembly session, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

HJR 95, A JOINT RESOLUTION designating Paul Salyers as a Poet Laureate.

WHEREAS, the Commonwealth of Kentucky has a rich history of contributions to the realm of

American literature; and

WHEREAS, Paul Salyers of Wolf, Kentucky, has advanced the wealth of Kentucky poetry with thousands of poems which have appeared in poetry publications throughout the United States and in Canada, England and Scotland; and

WHEREAS, Paul Salyers is the author of fourteen books of poetry, such as "Voice of the Hills," "The Passing Day," "Sap With a Sproutin' Hoe," and "Thoughts Behind a Plow"; and

WHEREAS, Paul Salyers has served as president of the Kentucky State Poetry Society and held various positions in poetry circles in several states; and

WHEREAS, Paul Salyers is included in the "International Who's Who in Poetry" and in "Personalities of the South" and is the poetry editor of the "Ashland Daily Independent"; and

WHEREAS, Paul Salyers, through his poetic works, has shown his warm understanding and deep appreciation of eastern Kentucky and its people;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That Paul Saylers of Wolf, Kentucky, be designated a Poet Laureate for the Commonwealth of Kentucky.

Section 2. That a copy of this resolution be sent by the clerk to Paul Salyers.

The Committee on State Government reported **HJR 58,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 (Title Amendment) to **HJR 58** is as follows:

Amend printed copy of **HJR 58,** by deleting the title and substituting the following:

"A JOINT RESOLUTION directing the Cabinet for Human Resources, in any rules adopted by the cabinet to govern payments to or for needy households for the purchase of home energy, to give first priority for assistance to those of the lowest income, and the highest benefit levels to households whose costs for food, shelter, clothing, energy and medical care exceed income."

The Committee Amendment No. 2 to **HJR 58** is as follows:

Amend printed copy of **HJR 58** on page 2, line 4, after "*assistance*" by inserting "shall be given to those of the lowest income,"; and

On page 2, line 5, by deleting the word "essential".

Motions, Petitions, and Communications (continued)

Representative Guenthner moved that he be recorded as voting "yea" on **SB 209.**

Representative Kidd moved that **HB 839** be withdrawn. Agreed.

Representative Arnold moved the adoption of the following Legislative Citation No. 94. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends you, Thornton Payne, for your laudable service as the manager of the Mt. Sterling Water Works System, Mt. Sterling, Kentucky for the past twenty-four years. Your exemplary record demonstrates great personal sacrifices and constant efforts to maintain and improve the water service of Mt. Sterling. Your devotion to serving the people of your community is most evident from the many improvements that have been accomplished during your tenure. Through these twenty-four years, you have seen the community through droughts, broken water mains, some unpopular rate hikes, and several renovative and new projects that have all gone toward creating one of the healthiest community water systems in the state. Your humanitarian and benevolent spirit is admirably reflected in your public service demonstrated through your involvement in the American Legion for 38 years and the Kiwanis Club for 34 years.

This prestigious body salutes and applauds you with profound appreciation for your dedication and contribution to the Mt. Sterling Water Works System, to your community and to the Commonwealth of Kentucky. (Sponsored by Representative Arnold)

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 116:**

HR 116, A RESOLUTION directing the Kentucky department of highways to name the soon to be constructed South Shore Bridge in honor of U.S. Congressman Carl D. Perkins.

WHEREAS, U.S. Congressman Carl D. Perkins has represented the constituents of Kentucky's 7th Congressional District with integrity, compassion and an abiding sense of social justice for more than 35 years; and

WHEREAS, Congressman Perkins' legislative record includes the Interstate Highway Act of 1956, the Basic Adult Education Act of 1961, the Manpower Development and Training Act of 1962 and the Vocational Education Act of 1963, as well as work to establish Social Security disability, black lung and child nutrition programs, and the Appalachian Regional Commission; and

WHEREAS, Congressman Perkins has sponsored legislation which has resulted in increased employment training, improved health care, greatly expanded educational opportunities, modern highway facilities and the betterment of the quality of life for all Kentuckians; and

WHEREAS, Congressman Perkins has honored Kentucky by being a respected advisor to Presidents and the longest serving committee chairman in the history of the House of Representatives; and

WHEREAS, it is fitting that Kentucky's longtime friend, advocate and defender be honored for a lifetime of dedicated public service;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Highways be directed to name the soon to be constructed South Shore Bridge in honor of U.S. Congressman Carl D. Perkins. This action, the General Assembly feels, is merited in view of Congressman Perkins' contributions to the Commonwealth during a tenure in office that has spanned 4 decades.

Section 2. That a copy of this resolution be transmitted to the Secretary of the Transportation Cabinet and Congressman Perkins.

HR 116 was adopted by voice vote.

Representative Lile moved the adoption of the following Legislative Citation No. 92. Agreed.

The House of Representative of the Commonwealth of Kentucky hereby commends you, the dedicated members of the South Dixie Fire Department, Valley Station, Kentucky, for your benevolent spirit and your excellent volunteer work in providing such a vital service to your community. In the midst of disasters, it is comforting to know that you are available and in the line of service that is most apparent. Your services are symbolized with perseverance and profound concern for others. Your self-sacrifice and self-denial are helping to build a healthy and wholesome community and society. Your participation in the "Crusade for Children" and other fund raising projects, demonstrate your dedication and humanitarian spirit for the people in the Commonwealth of Kentucky.

This prestigious body salutes you for your courageous and vigilant service. (Sponsored by Representative Lile)

Representative Johnson moved that **HB 989** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Williams moved the adoption of the following Legislative Citation No. 93. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes Speaker of the House of Representatives, Willy Brown, of California to the Commonwealth of Kentucky. Your exemplary record demonstrates great personal sacrifices and constant efforts in continuously promoting the welfare of your constituents. Your contribution to the State of California is most admirable and your leadership and influence is far reaching and most creditable.

This honorable body highly commends you for your fortitude, dedication and most noteworthy accomplishments. We extend to you our very best wishes, health and success in your future endeavors as you continue your service to all mankind. (Sponsored by Representative Williams)

Representative List moved that adoption of the following Legislative Citations No. 95, 96, and 97. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates the Henry Clay High School "Blue Devils" Boys Basketball Team and your excellent coach, Al Prewitt, for winning "The Sweet Sixteen" State Tournament held at Rupp Arena, Lexington, Kentucky, March 19, 1983. Your incredible season record of 32-2 reflects hard work, school loyalty, competitive spirit and a positive team effort. Your outstanding victory over Carlisle County was an expressed manifestation of your high level of performance, as well as a dream come true for every player aspiring for "The Sweet Sixteen" Crown. You have bestowed honor and pride on your school, community and the Commonwealth of Kentucky.

This prestigious body salutes and applauds you for your demonstration of leadership, sportsmanship and superb athletic abilities as you captured this most noteworthy title. (Sponsored by Representative List)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Jan Carden, senior at Tates Creek Senior High School, for winning the Best Actress Award three times; once by the Southeastern Theater Conference and twice by the Kentucky High School Speech League. Miss Carden is the lovely and talented daughter of Mr. and Mrs. Don Carden of Lexington, Kentucky. Your involvement and participation with musical productions and plays at Tates Creek High School is most noteworthy. We commend you highly for your talent, creativity and self-expression that stimulates the best and most beautiful in all mankind. You have bestowed great honor and pride upon your peers, school, community and the Commonwealth of Kentucky. This auspicious body extends our best wishes to you as you represent Kentucky at the Southeastern Theater Conference, May 9, 1984 in Washington, D.C.

The House of Representatives applauds you and extends to you our very best wishes for your continued success. (Sponsored by Representative List)

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Dana Points, lovely daughter of Mr. and Mrs. Phil Points of Lexington, Kentucky, for winning the All Star Cast Award by the Kentucky Theater Association for your recent participation in "The Laundromat." Especially noteworthy is the fact that the Kentucky High School Speech League awarded you second place in Analysis of Public Address your sophomore year and second place in Prose Reading your junior year. As a senior at Tates Creek High School you have been involved in musical productions and several plays, which have gained you high recognition. Your leadership as editor of the school newspaper is exemplary of your fine leadership. This auspicious body extends our best wishes to you as you participate in the Duo Acting Competition held at the University of Kentucky in April, 1984.

We salute you for the great distinction and honor that you have brought to your school, community and the Commonwealth of Kentucky. (Sponsored by Representative List)

The following meetings were announced:

Committee on Judiciary-Criminal Special Meeting: Tuesday, on adjournment.

Committee on Education Special Meeting: Monday, on adjournment.

Committee on Natural Resources and Environment: On adjournment, Tuesday, Room 104.

Representative Cline moved that the rules be suspended to allow all properly filed co-sponsor requests to be approved. Agreed.

The following members have filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bendl, **HR 109, HB 876, HB 890, HB 1014;** Representative L. Clark, **HR 109, HB 876, HB 890, HB 1014;** Representative Cline, **HB 1014;** Representative Cowan, **HR 73, HB 632;** Representative Fryman, **HB 607;** Representative Gray, **HB 632;** Representative Handy, **HB 890, HR 109;** Representative Head, **HB 758;** Representative Kenton, **HB 982;** Representative Maggard, **HB 607;**

Representative Moberly, **HB 671**; Representative F. Smith, **HB 539**; Representative Williams **HB 636**; Representative Yates, **HB 876, HB 890, HB 1014, HR 109.**

The following Floor Amendments were filed to Bills:

Floor Amendment No. 1 to **SB 11**, by Representative List:

Amend printed copy of **SB 11**, on page 2, after line 19, by adding:

Section 2. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of th Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Floor Amendment No. 5 to **SB 56**, by Representative Ford:

Amend printed copy of House Committee Substitute for **SB 56**, on page 77, between lines 9 and 10, by inserting the following:

Section 36. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.

(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton *#1, Canton #2,* West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, *Montgomery, Linton*-Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the

Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31

of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the Lexington-Blue Grass Army Depot and in the election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6,

B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson; *and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike.*

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, *that part of* Sandfordtown *not contained in the Sixty-third District,* Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the [~~precinct~~] *city* of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; that part of Florence 3 bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning; Florence 6; that part of Kenton County containing the following voting precincts: *that part of Bromley precinct not contained in Ludlow city and in Bromley city,* Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's

Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, *Petersville,* and Burtonsville [~~and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary~~].

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, *Aspendale-Bluegrass* [~~Aspendale, Bluegrass~~], Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay, Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, *Ohio-Walnut* [~~Ohio~~], Rookwood, Victory, [~~Walnut Street,~~] Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, *Douglas-Washington* [~~Douglas~~], Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, [~~Imperial,~~] Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles *Road* [~~Pike~~], Viley Heights, [~~Washington,~~] Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and *Arlington-Imperial* [~~Arlington~~].

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport *North, Airport South,* Blueberry Hills *South, Blueberry Hills West,* Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell *East, McDowell West,* Malabu, Montavesta *East, Montavesta West,* Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, *South Point North,* Tudor, Bayswater, Kirklevington *East, Kirklevington West,* Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview *North, Lakeview South,* Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, *Delong East,* River Park, Blairmore, Edgewater, Ascot, Park Hills *North, Park Hills South,* Cove Lake *North, Cove Lake South,* Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh

District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard, *Portersburg* and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon, *Booneville South, Booneville North* and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and 506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner , Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood , Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

Section 37. KRS 6.041 is amended to read as follows:

(1) Any reference in KRS 6.011 and 6.031 to a census unit, city, county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980.

(2) Any reference to a ward, commissioner's district or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980, *and except that for purposes of KRS 6.031:*

(a) Any reference to Trigg County election precincts or other territory shall mean those precincts or territory as their boundaries existed on January 1, 1984;

(b) Any references to Fayette County election precincts shall mean those precincts as their boundaries existed on January 1, 1984.

And on page 77, line 10, by changing "Section 36" to "Section 38"; and

On page 77, line 13, by changing "Section 37" to "Section 39"; and

On page 78, line 7, by changing "Section 38" to "Section 40"; and

On page 78, line 24, by inserting after "Elections," the phrase "and whereas this Act alters the boundaries of representative districts in which primary elections will be held in May of 1984,"; and

On page 78, line 26, by deleting "and 36" and by inserting in lieu thereof ", 36, 37 and 38".

Floor Amendment No. 6 to **SB 56,** by Representative LeMaster:

Amend printed copy of House Committee Substitute to **SB 56** on page 6, after line 8 add the following:

"*(18) If a vacancy occurs after the nominating primary, the vacancy shall be filled by certifying the person who received the next highest vote count in the primary as nominated.*

(19) Voters shall be permitted at any regular election to cast write-in votes for any person according to the procedures prescribed by law for write-in votes generally.

Floor Amendment No. 1 to **HB 431,** by Representative Priddy:

Amend printed copy of Committee Substitute to **HB 431** on page 12, line 19, after the word "*KRS*" by deleting "*95A.220*"; and inserting in lieu thereof the following "*15.430*".

Floor Amendment No. 1 to **HB 499,** by Representative Deskins:

Amend printed copy of **HB 499** on page 1, after line 15, by adding the following section:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Notwithstanding other provisions of this chapter, prior to an examination of an employe, as required by this chapter, the requesting party of such examination shall make arrangements to provide the cost of the examination, the cost of transportation of the employe to and from the examination and the cost of meals and lodging, if necessary."

Floor Amendment No. 2 to **HB 679,** by Representative Moore:

Amend printed copy of **HB 679,** page 2, lines 12, 13, and 14, by deleting those lines in their entirety with the exception of "in the reclamation plan." and substituting therefor the following:

"*The cabinet shall not arbitrarily deny or delay any permit application based on the siltation structure design if the registered professional engineer has utilized or developed a procedure or analytical method which meets the design, performance and construction standards of this chapter and applicable regulations, merely because such method or procedure differs from the departmental technical guidelines or internal policies, provided that the registered professional engineer shall design such structures based on all available information and on a site specific basis. The reasons for denial shall be given in writing within fifteen (15) days after commencement of technical review on a complete application, and shall be specific;*"

Floor Amendment No. 1 to **HB 644,** by Representative Meyer:

Amend printed copy of Committee Substitute to **HB 644** on page 1, lines 1 through 6, to delete the same,

and on page 1, line 7, to delete "(2)"

and on page 1, line 9, to delete "*, or to provide*"

and on page 1, line 10, to delete the same and on page 1, line 11, to delete "*seminate, or cablecast*" and to insert in lieu thereof:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

Each person who distributes television service for pay shall offer to each subscriber of the service, at no cost to the subscriber, a device or procedure which will totally block out reception of visual or audio programming which the subscriber deems objectionable or potentially objectionable. The device shall operate on a full-time basis."

and on page 1, lines 12 through 21, to delete the same

and on page 2 through 4, lines 1 through 26, to delete the same

and on page 5, lines 1 through 6, to delete the same

and on page 5, line 7, to delete "7" and to insert in lieu thereof "3"

Floor Amendment No. 1 to **HB 684,** by Representative Farrow:

Amend printed copy of **HB 684,** on page 6, line 14, after the word "of" by deleting the word "*eight (8)*" and inserting in lieu thereof the words "*nine (9)*"; and

On page 6, line 20, after the word "association" by adding the following: "*one (1) horseman from a list of three (3) submitted by the Kentucky Harness Horsemen's Association,*".

Floor Amendment No. 1 to **HB 729,** by Representative Mann:

Amend printed copy of **HB 729,** page 1, following line 12, by adding the following: "*(2) Nothing in this section shall apply to lands classified by the U.S. soil conservation service as class 5, 6, 7, or 8.*"

Floor Amendment No. 1 to **HB 826,** by Representative Cowan:

Amend printed copy of **HB 826,** on page 1, line 1, by deleting lines 1 thru 9 in their entirety and inserting in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(a) Unfair methods of competition or unfair or deceptive acts or practices in the business of insurance include: refusing to insure, or refusing to continue to insure, or limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonable anticipated experience.

(b) This Act shall apply to policies, insurance contracts, or annuities delivered, issued for delivery, or renewed in this state after the effective date of this Act."

Floor Amendment No. 7 to **SB 56,** by Representative LeMaster:

Amend printed copy of House Committee Substitute for **SB 56,** on page 1, by deleting lines 1 through 21; and

on page 2, by deleting lines 1 through 26; and

on page 3, by deleting lines 1 through 26; and

on page 4, by deleting lines 1 through 26; and

on page 5, by deleting lines 1 through 26; and on page 6, by deleting lines 1 through 8.

Representative LeMaster moved that when the House adjourns, it do so until 4:00 p.m., Monday, March 12, 1984. Agreed.

Representative LeMaster moved that when the House adjourns, it do so by voice vote. Agreed.

Representative LeMaster moved that no further business be conducted on this day other than Report of Committees, filings of Floor Amendments, and announcements. Agreed.

Recess

Representative LeMaster moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Energy: **HB 221, HB 890.**

Report of Committees

The Committee on Rules reported **HB 544, HB 557, HB 564, HB 738, HB 746, HB 808, HB 937, SB 20, HB 666, HB 702, HB 762, HB 780, HB 817, HJR 63, HB 38, HB 781, SCR 6,** and **HB 507** have been posted for passage in Orders of the Day, March 13, 1984.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **SB 226.**

Energy: **HB 221.**

Adjournment

Representative LeMaster moved that the House adjourn until 4:00 p.m., Monday, March 12, 1984.

The motion to adjourn was adopted.

MONDAY, MARCH 12, 1984

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richardson.

Prayer by Reverend James E. Jones, Campbellsville Baptist Church, Campbellsville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of March 9, 1984, be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 204, SB 222, SB 285, SB 300, SB 303, SB 305, SB 307, SB 309, SB 330, SB 333, SB 390, HB 182** with Senate Amendment, **HB 434, HB 462,** and **HB 631**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 36, HB 41, HB 42,** and **HB 67** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:22 p.m.)

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 336.**

Cities: **SB 306, SB 317, SB 356.**

Judiciary-Civil: **SB 262, SB 302.**

Judiciary-Criminal: **SB 77.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **SB 283, HJR 74.**

Calendar

HB 684, HB 473, HB 499, HB 694, HB 699, HB 992, HB 868, HB 814, HB 886, HCR 96, HB 280, HB 515, HB 615, HB 706, HB 728, HB 743, HB 760, HB 882, and **HJR 95** taken from the Calendar and ordered read at length for the second time. Representative LeMaster moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 7, SB 108, SB 183, SB 209,** and **SB 239** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:30 p.m.)

Speaker Pro Tempore Blandford presiding.

The Speaker addressed the House.

The Speaker resumed the Chair.

Orders of the Day

HB 16, with Committee Substitute and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Substitute to **HB 16.** Agreed.

Representative Farrow moved that **HB 16,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 90-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Yates. Nays 6-Freibert, Heleringer, Layman, Lile, Moore, Worthington.

HB 16, by way of Committee Substitute, was passed.

Representative Farrow moved the adoption of the Committee Title Amendment to **HB 16.** Agreed.

Representative LeMaster moved that the vote by which **HB 16,** by way of Committee Substitute, was passed by reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 136, SB 251, SB 282, SB 298, SB 326, SB 331, SB 335, SB 340, SB 352, SB 364, SJR 46, SJR 47, SJR 51, HB 113, HB 389, HB 519,** and **HB 598.**

Orders of the Day (continued)

HB 21 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **HB 21** be passed.

On the roll call the vote was yeas 91-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Worthington, Yates. Nays 0.

HB 21 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 21** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 264, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Committee Substitute to **HB 264.** Agreed.

Representative List moved that **HB 264,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 95-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 1-Pearman.

HB 264, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 264,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 304, with Committee Substitute and Floor Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 304.** Agreed.

Representative Clarke moved the adoption of the Committee Substitute to **HB 304.** Agreed.

Representative Clarke moved that **HB 304,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 97-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 304, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 304,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 429, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Amendment No. 1 to **HB 429.** Rejected.

Representative Gray moved that **HB 429** be passed.

Representative Clarke moved that the vote by which Committee Amendment No. 1 to **HB 429** was rejected be reconsidered.

On the roll call the vote was yeas 31-Arnold, Bendl, Bennett, Bruce, Burch, Caldwell, Clapp, Clarke, Curd, Cyrus, Foster, Freibert, Gray, Guenthner, Head, Hines, Holbrook, Kenton, Kidd, List, McElroy, McNutt, Meyer, Moberly, Morris, Pearman, Priddy, Rapier, Rattliff, B. Smith, Thomason. Nays 54-Allen, Blevins, Brinkley, Bronger, Brown, L. Clark, P. Clark, Cline, Cowan, Crupper, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Fryman, Gedling, Hancock, Handy, Harper, Heleringer, Johnson, R. Jones, T. Jones, Layman, Lefevers, Lile, Little, Long, Lundergan, Maggard, McBee, Moore, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Petty, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, F. Smith, Stone, Todd, Turner, Van Horn, White, Yates.

The motion that the vote by which Committee Amendment No. 1 to **HB 429** was rejected be reconsidered was rejected.

On the roll call the vote was yeas 40-Barrows, Bendl, Bennett, Brinkley, Brown, Bruce, Clapp, Curd, Cyrus, Deskins, Donnermeyer, Foster, Gray, Hancock, Handy, Head, Hines, Holbrook, Holloway, Kidd, LeMaster, List, Little, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Pearman, Perkins, Petty, Priddy, Rapier, Richards, B. Richardson, Thomas, Thomason, Williams. Nays 53-Allen, Arnold, Blandford, Blevins, Bronger, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Dawahare, Dunn, Ellington, Endicott, Farrow, Ford, Freibert, Fryman, Guenthner, Harper, Heleringer, Johnson, R. Jones, Layman, Lefevers, Lile, Long, Lundergan, Maggard, McBee, Moore, Noland, O'Brien, Overstreet, Patrick, Rattliff, Reinhardt, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Todd,Turner, Van Horn, White, Worthington, Yates.

HB 429 was defeated.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 434**, **HB 462**, and **HB 631** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 5:16 p.m.)

Orders of the Day (continued)

HB 513 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 513** be passed.

On the roll call the vote was yeas 35-Allen, Arnold, Barrows, Bendl, Blevins, Brinkley, Clarke, Craddock, Ford, Foster, Gedling, Guenthner, Hancock, Head, Holbrook, Holloway, R. Jones, Layman, LeMaster, Long, Lundergan, McElroy, McNutt, Moore, Noe, Pearman, Rapier, Richards, B. Richardson, F. Smith, Stone, Todd, Turner, White, Worthington. Nays 53-Bennett, Blandford, Bronger, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Cline, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Freibert, Fryman, Gray, Handy, Heleringer, Johnson, Lefevers, Lile, List, Little, Maggard, Mann, McBee, Meyer, Moberly, Morris, Nett, O'Brien, Overstreet, Patrick, Perkins, Petty, Priddy, Rattliff, Riner, Robinson, Seum, B. Smith, Stumbo, Thomas, Thomason, Van Horn, Williams, Yates.

HB 513 was defeated.

HB 686 taken from Orders fo the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 686** be passed.

On the roll call the vote was yeas 84-Allen, Arnold, Barrows, Bendl, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Robinson, Seum, Stone, Stumbo, Thomas, Todd, Turner, White, Worthington, Yates. Nays 12-Bennett, Burch, Crupper, Dawahare, Ellington, Farrow, Mann, B. Richardson, B. Smith, F. Smith, Van Horn, Williams.

HB 686 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 686** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 749 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that **HB 749** be passed.

On the roll call the vote was yeas 85-Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Foster, Freibert, Fryman, Gedling, Hancock, Harper, Head, Heleringer, Hines, Holbrook, Johnson. R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, Stone, Stumbo, Thomason, Todd, Van Horn, White, Williams, Worthington, Yates. Nays 11-Allen, Caldwell, Farrow, Gray, Guenthner, Holloway, Layman, Patrick, Pearman, F. Smith, Turner.

HB 749 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 749** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 776 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved that **HB 776** be passed.

On the roll call the vote as yeas 5-Bendl, Head, Hines, Johnson, Kidd. Nays 92-Allen, Arnold, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Heleringer, Holbrook, Holloway, R. Jones, Kenton, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates.

HB 776 was defeated.

HR 50 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of **HR 50**.

HR 50 was adopted by voice vote.

HB 271, with Committee Substitute and Committee Title Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved the adoption of the Committee Substitute to **HB 271**. Agreed.

Representative Cyrus moved that **HB 271,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 47-Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Burch, Burnette, L. Clark, P. Clark, Clarke, Cowan, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Gedling, Gray, Hancock, Handy, Heleringer, Hines, Johnson, T. Jones, Kenton, LeMaster, Lile, Little, Lundergan, Maggard, Mann, Moberly, Nett, Noe, O'Brien, Perkins, Priddy, B. Richardson, F. Smith, Stone, Stumbo, Van Horn, Williams, Worthington, Yates. Nays 44-Allen, Bruce, Caldwell, Clapp, Craddock, Dawahare, Ellington, Farrow, Ford, Foster, Freibert, Fryman, Guenthner, Harper, Head, Holloway, R. Jones, Layman, Lefevers, List, Long, McBee, McElroy, McNutt, Meyer, Morris, Noland, Overstreet, Patrick, Pearman, Petty, Rapier, Rattliff, Reinhardt, Richards, P. Richardson, Riner, Robinson, Seum, B. Smith, Thomason, Todd, Turner, White.

HB 271, by way of Committee Substitute, was passed.

Representative Cyrus moved the adoption of the Committee Title Amendment to **HB 271**. Agreed.

Representative LeMaster moved that the vote by which **HB 271,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 609, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 609.** Agreed.

Representative Bendl moved that **HB 609,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 99-Allen, Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Freibert, Fryman, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Kidd, Layman, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Morris, Nett, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, F. Smith, Stone, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 0.

HB 609, by way of Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 609,** by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table.

HB 376, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kenton moved the adoption of the Committee Substitute to **HB 376.** Agreed.

Representative Kenton moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 376.** Agreed.

Representative Kenton moved that **HB 376,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 79-Arnold, Bendl, Blandford, Blevins, Brinkley, Bronger, Bruce, Burch, Burnette, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Dunn, Endicott, Farrow, Foster, Freibert, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kenton, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Morris, Noe, Noland, O'Brien, Overstreet, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stumbo, Thomas, Thomason, White, Worthington, Yates. Nays 11-Allen, Dawahare, Ellington, Fryman, Guenthner, Moore, Patrick, Stone, Turner, Van Horn, Williams.

HB 376, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 376,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 154 taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **SB 154** be passed.

On the roll call the vote was yeas 85-Arnold, Barrows, Bendl, Bennett, Blandford, Blevins, Brinkley, Bronger, Brown, Burch, Burnette, Clapp, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Cyrus, Dawahare, Deskins, Donnermeyer, Dunn, Ellington, Endicott, Ford, Freibert, Gedling, Gray, Guenthner, Hancock, Handy, Harper, Head, Heleringer, Hines, Holbrook, Holloway, Johnson, R. Jones, T. Jones, Kidd, Lefevers, LeMaster, Lile, List, Little, Long, Lundergan, Maggard, Mann, McBee, McElroy, McNutt, Meyer, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Patrick, Pearman, Perkins, Petty, Priddy, Rapier, Rattliff, Reinhardt, Richards, B. Richardson, P. Richardson, Seum, B. Smith, Stone, Stumbo, Thomas, Thomason, Van Horn, White, Williams, Worthington, Yates. Nays 11-Allen, Bruce, Caldwell, Farrow, Foster, Fryman, Morris, Robinson, F. Smith, Todd, Turner.

SB 154 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 154** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 619, with Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative LeMaster moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative List moved the adoption of the Floor Amendment No. 3 to **HB 619.** Agreed.

Representative List moved that **HB 619,** as amended, be passed.

On the roll call the vote was yeas 24-Barrows, Bruce, Cowan, Deskins, Hancock, Holbrook, T. Jones, Layman, LeMaster, List, Long, McElroy, Meyer, Morris, Pearman, Petty, Rapier, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, Thomas, Thomason. Nays 67-Allen, Arnold, Bendl, Bennett, Blandford, Blevins, Brinkley, Brown, Burch, Caldwell, Clapp, L. Clark, P. Clark, Clarke, Cline, Craddock, Crupper, Curd, Cyrus, Dawahare, Donnermeyer, Dunn, Ellington, Endicott, Farrow, Ford, Foster, Fryman, Gedling, Gray, Guenthner, Handy, Harper, Head, Heleringer, Hines, Holloway, Johnson, Kenton, Kidd, Lefevers, Lile, Little, Maggard, Mann, McBee, McNutt, Moberly, Moore, Noe, Noland, O'Brien, Overstreet, Patrick, Perkins, Priddy, Rattliff, Reinhardt, F. Smith, Stone, Stumbo, Turner, Van Horn, White, Williams, Worthington, Yates.

HB 619, as amended, was defeated.

Motions, Petitions, and Communications

Representative LeMaster moved that the rules be suspended for Introduction of Resolutions and Report of Committees. Agreed.

Introduction of Resolutions

HCR 120, by Representatives Noe, Moberly, Handy, Meyer, Long, Cowan, Bendl, and Little: A CONCURRENT RESOLUTION concerning the Social Security Disability Insurance Benefit Program and Supplemental Security Income Program for Disabled Persons, urging the Cabinet for Human Resources to improve the fairness of the administration of these programs and directing the Legislative Research Commission, through the Interim Joint Committee on Health and Welfare, to study any action which should be taken by the Commonwealth to protect its disabled citizens.

HCR 121, by Representatives Priddy and P. Clark: A CONCURRENT RESOLUTION directing the study of the effects of locating landfills within a limited geographical area.

HCR 122, by Representative Priddy: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Cities to study the jurisdiction of law enforcement officers of cities of the sixth class.

HCR 123, by Representatives Moore and White: A CONCURRENT RESOLUTION instructing the Department of Highways to widen a bridge over Little Goose Creek near US Route 421 and provide a reversible left turn storage lane at the intersection of State Route 638 and US Route 421.

HCR 124, by Representative Moore: A CONCURRENT RESOLUTION to instruct the Department of Highways to construct an interchange to the Daniel Boone Parkway at the junction of State Route 257.

HCR 125, by Representative Moore: A CONCURRENT RESOLUTION directing the Department of Fish and Wildlife Resources to construct a fish ladder at the dam of the Hyden-Leslie County Water District on the Middle Fork of the Kentucky River.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **SB 153, SB 156, SB 159, SB 160, SB 161, SB 163, SB 164, SB 165, SB 178, SB 179, SB 180, SB 182, SB 184, SB 186, SB 187, SB 188, SB 189, SB 192, SB 236, SB 237, SB 240, SB 157, SB 162, HB 134, HB 851, HB 925, HB 709, HJR 98, HB 965.**

Cities: **SB 306.**

Judiciary-Criminal: **SJR 23.**

Banking and Insurance: **HB 985, HB 897, HB 898, HB 914, HB 934, HB 1007, HB 1010, SB 308, SB 84.**

Appropriations and Revenue: **HB 107, HB 765.**

Education: **SR 42, SB 169, SB 202, HCR 83, HCR 90.**

Natural Resources and Environment: **HB 931, SB 280, SB 41, SB 152.**

The Clerk announced **HB 668** and **HB 698** have been withdrawn from consideration by the Committee on Education.

Motions, Petitions, and Communications (continued)

Representative Clarke moved that **HB 957** be reassigned to the Committee on Labor and Industry. Agreed.

Representative F. Smith moved that he be recorded as voting "nay" on **HB 634**. Agreed.

Representative F. Smith moved that he be recorded as voting "yea" on **HB 76**. Agreed.

Representative Donnermeyer moved that **HB 590**, as amended, be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Moore moved that he be recorded as voting "yea" on **HB 609**. Agreed.

Representative Gray moved that the be recorded as changing his vote from "yea" to "nay" on **HB 634**. Agreed.

Representative Cline moved that he be recorded as changing his vote from "yea" to "nay" on **HB 153**. Agreed.

Representative Cline moved that he be recorded as voting "yea" on **HB 258**. Agreed.

A meeting of the Committee on Labor and Industry was announced for Tuesday, 8:00 a.m.

Representative Cyrus moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cyrus moved the adoption of the following **HR 117**:

HR 117, A RESOLUTION directing the Department of Highways to name the soon to be constructed Greenup Dam Bridge in memory of Jesse Stuart.

WHEREAS, Jesse Hilton Stuart had an abiding love for Kentucky and, as a natural storyteller, the ability to express it; and

WHEREAS, Jesse Stuart expressed his love for the Kentucky land and its people in more than 2100 poems, hundreds of short stories and 52 books; and

WHEREAS, Jesse Stuart not only immortalized Appalachian life in the course of his literary career, but was named Kentucky's Poet Laureate and received the highest award given to a Kentucky citizen - The Governor's Distinguished Medal of Public Service; and

WHEREAS, Jesse Stuart, in addition to being a distinguished and prolific writer, was an innovative teacher and educator, and a dedicated conservationist who was described as "A Commonwealth Treasure"; and

WHEREAS, it is fitting to memorialize the life and work of one of Kentucky's most beloved sons;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Highways be directed to name the soon to be constructed Greenup Dam Bridge in memory of Jesse Hilton Stuart. This action, the General Assembly feels, is merited in view of Jesse Stuart's contributions to the Commonwealth during a long and illustrious career in letters and public service.

Section 2. That a copy of this resolution be transmitted to the Secretary of the Transportation Cabinet.

HR 117 was adopted by voice vote.

Representative LeMaster moved that the rules be suspended for Report of Committee Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 957**.

The Clerk announced **HB 146** has been withdrawn from Committee consideration by the Committee on Labor and Industry.

The following Floor Amendments were filed to Bills and Resolutions:

Floor Amendment No. 1 to **SB 20**, by Representative Rattliff:

Amend printed copy of House Committee Substitute for General Assembly copy of **SB 20**, page 12, line 13 following "*court*" insert the following:

"*(5) At the time of surrender of the motor vehicle or motorcycle operator's license the defendant shall also surrender the license plate for the vehicle being operated by the defendant if the vehicle was registered to the defendant. No new license plate or renewal plate shall be issued for any such vehicle during the period of operator's license revocation unless the vehicle is transferred to another owner. Said vehicle shall not be transferred with the intent of avoiding the operation of this section. The transfer of said vehicle to the spouse, parent, or child of the defendant shall be rebuttably presumed to be made with the intent of avoiding the operation of this section. The transfer to any other person, corporation, partnership or association for less than seventy-five percent (75%) of the value upon which the ad valorem tax is imposed for said vehicle shall be rebuttably presumed to be made with the intent of avoiding the operation of the section. Should a vehicle transferred to any person, corporation, partnership or association be operated by the defendant while his license is revoked pursuant to this Act and the defendant be convicted of such operation on two (2) occasions then the court shall order the forfeiture of the license plates for that vehicle for the remaining period of license suspension and no new license plate or renewal plate shall be issued unless the vehicle is transferred to an owner other than the defendant, or the defendant's spouse, child, or parent for at least seventy-five percent (75%) of the value upon which the ad valorem tax is imposed for said vehicle.*

(6) The court shall retain control of the license together with any license plates surrendered under this Act until such time as the suspension or revocation is lifted as provided in this Act.

(7) At the end of the period of license suspension or revocation the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license together with any license plates surrendered under this Act. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the justice cabinet for other reasons, the license and vehicle license plates shall be returned."

Floor Amendment No. 2 to **SB 20**, by Representative Holbrook:

Amend printed copy of House Committee Substitute for General Assembly copy of **SB 20**, on page 3, line 9 to delete "*with*" and to insert in lieu thereof "*without*";

And on page 3, line 9, to delete "*(if the*";

And on page 3, line 10, to delete "*trial was by a jury),*"

Floor Amendment No. 8 to **SB 56**, by Representative O'Brien:

Amend printed copy of House Committee Substitute for **SB 56** on page 18, line 20, after "*clerk.*" by deleting "*county clerk shall not certify his*"

And at the beginning of line 21, by deleting "*name.*"

And on page 37, line 11, after "primary" by removing the brackets and strikethroughs from "or regular" and on line 11, after "election" by deleting "*or seventy-*"

And at the beginning of line 12 by deleting "*five (75) days before a regular election*"

And on page 39, line 23 after "or" by deleting "*sixty (60) days before the*"

And on page 40, line 14, after "primary" by placing brackets around and striking through "or regular election" and after "election" by inserting "*or fifty-five (55) days before a regular election*"

And on page 42, line 25 after "or" by inserting "*forty (40) days before the*"

And on page 44, line 11, after "[~~general~~]" by removing the closing bracket and by striking through and placing a closing bracket after "election"

And on line 11 after "or" by inserting "*sixty-six (66)*" and by deleting "*eighty-eight*" and at the beginning of line 12 by deleting "*(88)*"

And at the beginning of line 20 by placing brackets around and striking through "election"

And on line 20 after "*or*" by inserting "*sixty-six (66)*" and by deleting "*eighty-eight (88)*"

And on page 45, line 25 after "time," by inserting "*eighty-six (86)*" and by deleting "*eighty-eighty (88)*"

And on line 26 after "or" by inserting "*sixty-six (66) days before the*

And on page 46, line 6 after "time," by inserting "*eighty-six (86)*"

And at the beginning of line 7 by deleting "*(88)*"

And on line 7, after "or" by inserting "*sixty-six (66) days before the*"

And on page 54, at the beginning of line 4 by inserting "*seventy (70)*" and by deleting "*ninety (90)*"

And on line 13 after "than" by inserting "*seventy (70)*" and by deleting "*ninety (90)*"

And on line 21 after "than" by inserting "*seventy (70)*" and by deleting "*ninety (90)*"

And on page 55, at the beginning of line 26 by inserting "*seventy (70)*" and by deleting "*seventy-five (75)*"

And on page 64, line 19, after "time," by inserting "*eighty-six (86)*" and by deleting "*eight-eight (88)*"

And on page 67. at the beginning of line 18 by inserting "*sixty-six (66)*" and by deleting "*eighty-eight (88)*"

And on page 68, line 1, after "than" by inserting "*fifty-five (55)*" and by deleting "*seventy-five (75)*'

And on page 70, line 23, after "least" by inserting "*seventy (70)*" and by deleting "*ninety (90)*"

And on page 71, line 24, after "time,"by inserting "*sixty-six (66)*" and by deleting "*eighty-eight (88)*"

And on page 72, line 7, after "than" by inserting "*fifty-five (55)*" and by deleting "*seventy-five (75)*"

Floor Amendment No. 9 to **SB 56**, by Representative O'Brien:

Amend printed copy of **SB 56/House** Committee Substitute on page 77, between lines 9 and 10, by inserting the following:

Section 36. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties and that part of McCracken County contained in the election precincts of Ragland, Grahamville, Woodville, Lamont and Maxon and in that part of the election precinct of Messac-Milan lying north-northwest of U.S. Highway 62.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County not contained in the First and Fourth Districts.

(4) Fourth District: Livingston County; that part of Crittenden County not contained in the Twelfth District and that part of McCracken County contained in the election precincts of Reidland No. 1, Reidland No. 2, Clark River, Hovekamp, Oaks Station, Hendron No. 2, Florence Station, Harper, New Hope-Melber, Rolling Hills, Lone Oak No. 1 and Lone Oak No. 2, and that part of the election precinct of Messac-Milan lying south-southwest of U.S. Highway 62.

(5) Fifth District: Calloway County and that part of Trigg County contained in the Land Between the Lakes and in the voting precincts of Bethesda, Canton, West Cadiz, North Cadiz 1, North Cadiz 2, South Cadiz 1 and South Cadiz 2.

(6) Sixth District: Lyon and Marshall Counties and that part of Caldwell County contained in election precincts Princeton #1, Princeton #4, Princeton #5 and Harmony.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasant Ridge, Utica, Snyder, West Louisville, Curdsville, St. Joseph, Rome, Sorgho, Masonville, Stanley, Northtown, Southtown, Fields, and Habit but excluding those parts of Northtown, Southtown and Fields precincts that are completely surrounded by one or more election precincts of the city of Owensboro.

(8) Eighth District: That part of Trigg County contained in Fort Campbell Military Reservation and in the voting precincts of Wallonia, Cerulean, *Montgomery, Linton-* Maggie and Caledonia-Roaring Spring; that part of Christian County not contained within the Ninth District.

(9) Ninth District: That part of Christian County contained in Fort Campbell Military Reservation and within the following voting precincts: Beverly, North Pembroke, Elmo, South Pembroke, Oak Grove, Lafayette, Sinking Fork, Consolation, West Crofton, East Crofton, Pilot Rock, Fearsville and Apex; that part of Hopkins County contained within the following voting precincts: East Dawson, Charleston and Ilsley.

(10) Tenth District: That part of Hopkins County not contained in the Ninth and Twelfth Districts.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara, Hebbardsville-Bluff City and South Robards.

(12) Twelfth District: Webster County; that part of Crittenden County contained in election precincts Rosebud, Shady Grove, Marion #5 and Marion #6; that part of Hopkins County contained in election precincts Ashbyburg, Hanson, East Hanson, Manitou and Nebo; that part of Caldwell County not contained in the Sixth District; and that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the following election precincts: Owensboro #1, #2, #5, #8, #12, #13, #16, #21, #22, #23, #25, #26, #27, #28, #29, #30, #31, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44 and #45 and those parts of the election precincts of Northtown, Southtown or Fields that are completely surrounded by one or more of the Owensboro precincts contained within the Thirteenth District.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: Sacramento, Livermore #3, Livermore #8 and Island.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Ohio and Butler Counties and that part of Hancock County contained in election precincts Boiling Chappell, Pellville, Chambers and Utility.

(18) Eighteenth District: Breckinridge County; that part of Hancock County not contained in the Seventeenth District; and that part of Meade County contained in election precincts Concordia, Flaherty, Guston, Payneville, Battletown and Wolfe Creek and in that part of Ekron election precinct lying west of a line formed by State Highway 144 and Rock Haven Road, and in that part of Woodland election precinct southeast of a line following Osborne Road northeastward to Hobbs-Reesor Road to State Highway 1238 and northeast on State Highway 1238 to the Woodland election precinct line.

(19) Nineteenth District: Edmonson and Grayson Counties; that part of Hardin County contained in voting precincts Upton, White Mills, Eastview and Meeting Creek.

(20) Twentieth District: That part of Warren County containing voting precincts Courthouse, Potter Gray, Nellums, Whayne Supply, Briarwood-Richland, Laurel and Broadway, Ogden College, Municipal Park, Shive-Kiel, 11th Street School, D and F Market, Greenwood, Carver-Harris, T. C. Cherry, Millers, 17th and Normal, Cabell Fire Station, Crestmoor, Millers #2, Carver Harris II, 11th Street Fire Station, Church Street, Watts Mill #2, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of West Simpson, North Simpson and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Hart County; Marion County; that part of Larue County contained in the election precincts of Buffalo, Buffalo East, Attilla, Otter and Mt. Sherman.

(25) Twenty-fifth District: That part of Hardin County not contained in the Nineteenth, Twenty-sixth and Twenty-seventh Districts.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff Northwest, Radcliff Southwest, Radcliff Southeast, Radcliff East, Radcliff North, Radcliff South, Radcliff West, Vine Grove East, Vine Grove West, Longview, Colesburg, that part of Yates precinct north of State Highway 144, and that part of the Fort Knox Military Reservation not included in the Twenty-seventh District; that part of Larue County not contained in the Twenty-fourth District.

(27) Twenty-seventh District: That part of Meade County not contained in the Eighteenth District; that part of Bullitt County contained in election precincts Cupio 13, Brooks 12 and Brooks 12A; that part of Hardin County contained in West Point election precinct and in that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to Park Road; thence southward to Eleventh Avenue; thence eastward on Eleventh Avenue and a line extending due eastward to the Bullitt County-Hardin County line.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C8, C14, C31, C32, C33, C40, C43, C44, C45, C47, C53, C56, C57, C58, C64, C65, C66, C72, C73, C78, C79, C82, C90, C91, C98, C99, C101, C103, C107, C108, C109 of Commissioner's District C.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C16, C19, C21, C24, C30, C34, C39, C46, C50, C54, C55, C59, C61, C67, C69, C71, C74, C75, C80, C81, C85, C94, C97, C100, C112 of Commissioner's District C.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B10, B13, B18, B19, B21, B22, B24, B25, B31, B40, B42, B43, B48, B49, B54, B58, B64, B67, B70, B71, B72, B78, B84, B85, B87, B89 of Commissioner's District B.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36, 38 and 39 of the Second Ward of the city of Louisville; and voting precincts A22, A35, A39, A63, A80, A81, A85, A86, A89, A91, A98, A99, A100, A102, A105, A114, A117, A118, A119, A123, A125, A127, A128, A135, A138, A139, A146 and A151 of Commissioner's District A.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 4, 5, 6, 7, 8, 9, 10, 23A, 23B, 23, 24, 25, 27, 28, 29, 30 and 33 of the First Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6, 7A, 7, 8, 10, 13, 15, 18, 20, 27, 32, 40 and 41 of the Second Ward of the city of Louisville; voting precincts 1 and 2 of the Third Ward of the city of Louisville; and voting precincts A4, A5, A6, A17, A18, A19, A24, A26, A27, A31, A32, A34, A46, A51, A64, A68, A71, A82, A83 and A94 of Commissioner's District A.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 23, 30 and 31 of the Second Ward of the city of Louisville; voting precincts A10, A11, A15, A16, A36, A53, A57, A70, A75, A76, A84, A87, A90, A92, A93, A95, A97, A101, A104, A112, A115, A120, A130, A132, A134, A137, A141 and A152 of Commissioner's District A.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 12, 16, 19A and 19 of the First Ward of Louisville; voting precincts 9, 11, 12, 14, 21, 24, 28, and 33 of the Second Ward of the city of Louisville; voting precincts 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the Third Ward of the city of Louisville; and voting precincts 7 and 11 of the Fifth Ward of the city of Louisville; voting precincts A96 and A103 of Commissioner's District A; and voting precinct B16 of Commissioner's District B.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 16, 17 and 29 of the Third Ward of the city of Louisville; 1, 5A, 5, 7, 8A, 8, 9A, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32 and 33 of the Fourth Ward of the city of Louisville; voting precincts 22, 26, 27, 28, 29 and 30 of the Fifth Ward of the city of Louisville; and voting precincts 10 and 13 of the Eighth Ward of the city of Louisville; and voting precincts B4, B8, B11, B12, B15 and B32 of Commissioner's District B.

(36) Thirty-sixth District: Garrard County; that part of Jessamine County contained in election precincts of East Nicholasville #1, East Nicholasville #2, West Nicholasville *# 1 and* #2, Southeast Nicholasville #1 and #2, Southwest Nicholasville #1, #2 and #3, Sulphur Well, Little Hickman, and Bethel; and that part of Madison County contained in the [~~Lexington-Blue Grass Army Depot and in the~~] election precincts of Blue Lick, East Berea, Gay-Stephens, North Berea, South Berea, West Berea, Big Hill, Bobtown-Redlick, Clay, Brassfield-Bearwallow, *Middletown* and Poosey.

(37) Thirty-seventh District: That part of Jefferson County containing voting precincts 2, 21, 23 and 34 of the Fourth Ward of the city of Louisville; voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 25, 29 and 33 of the Sixth Ward of the city of Louisville; voting precincts 6, 8, and 9 of the Seventh Ward of the city of Louisville; voting precincts 11, 12, 14A, 14, 16A and 16 of the Eighth Ward of the city of Louisville; voting precincts B5 (not including that part of B5 located within the city limits of Louisville), B29, B75, B79, B82 and B92 of Commissioner's District B; and voting precincts C22 and C70 of Commissioner's District C.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 24, 26A, 26, 27, 28, 30, 31 and 32 of the Sixth Ward of the city of Louisville; voting precincts 3A, 3, 5, 7, 10, 13, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Seventh Ward of the city of Louisville; that part of voting precinct B5 of Commissioner's District B not contained within the Thirty-seventh District; and voting precincts C12, C18, C60, C87, C89 and C96 of Commissioner's District C.

(39) Thirty-ninth District: That part of Harlan County contained in the election precincts of Old Baxter, New Baxter, Pine Mountain, Bledsoe, Loyall-Old, Loyall-School and Rio Vista; that part of Perry County not contained in the Ninety-first District; that part of Owsley County not contained in the Ninetieth District.

(40) Fortieth District: That part of Jefferson County containing voting precincts 24 and 25 of the Fifth Ward of the city of Louisville; voting precinct 5 of the Sixth Ward of the city of Louisville; voting precincts 1, 2, 4, 11, 12, 14 and 17 of the Seventh Ward of the city of Louisville; voting precincts 7, 8A, 8, 9, 15A, 15, 17, 18A, 18, 19, 20 and 21, of the Eighth Ward of the city of Louisville; voting precincts 10, 11, 13, 14A, 14, 15, 16, 17 and 18 of the Ninth Ward of the city of Louisville; voting precincts 25A and 25 of the Tenth Ward of the city of Louisville; and voting precincts C9, C25, C27, C35, C51, C63 and C68 of Commissioner's District C.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 3, 11, 13, 14, 15, 17, 21, 31, 32 and 34 of the First Ward of the city of Louisville; voting precincts 2, 3, 4, 5, 6, 8, 10, 13, 15, 18, 19 and 31 of the Fifth Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 29 and 30 of the Tenth Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 12, 16, 17, 20, 21, and 23 of the Fifth Ward of the city of Louisville; voting precincts 1, 2, 3, 4, 5, 6 and 22 of the Eighth Ward of the city of Louisville; voting precincts 1, 2, 4, 7A, 7, 8, 9, 19, 20 and 21 of the Ninth Ward of the city of Louisville; voting precincts 16A, 16, 17, 19, 21A, 21, 22, 23, 24, 26, 27, 28A and 28 of the Tenth Ward of the city of Louisville; voting precincts 14, 15, 16, 17, 18A, 18, 19, 20, 21A, and 21 of the Eleventh Ward of the city of Louisville; and voting precincts 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 22 of the Eleventh Ward of the city of Louisville; and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 11, 12, 13, 14, 15, 16A, 16, 17, 18, 19, 20, 21, 22 and 23 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts 3, 5, 6 and 22 of the Ninth Ward of the city of Louisville; and voting precincts C1, C2, C3, C4, C10, C13, C15, C17, C20, C26, C28, C29, C36, C37, C38, C41, C42, C48, C49, C52, C62, C76, C77, C83, C84, C86, C88, C92, C93, C95, C104, C105, C106, C110 and C111 of Commissioner's District C.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B1, B2, B3, B6, B7, B9, B17, B23, B27, B28, B30, B39, B45, B55, B56, B59, B63, B66, B73, B74, B76, B81, B83, B90, B91 and B94 of Commissioner's District B; and voting precincts C23 and C102 of Commissioner's District C.

(46) Forty-sixth District: That part of Jefferson County containing voting precinct A88 of Commissioner's District A; and voting precincts B14, B20, B26, B33, B34, B35, B36, B37, B38, B41, B44, B46, B47, B50, B51, B52, B53, B57, B60, B61, B62, B65, B68, B69, B77, B80, B86, B88 and B93 of Commissioner's District B.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A8, A12, A13, A14, A20, A21, A23, A25, A28, A33, A37, A38, A41, A42, A43, A44, A45, A50, A58, A65, A69, A72, A74, A77, A106, A107, A108, A109, A110, A124, A126, A129, A133, A136, A147, A149 and A153 of Commissioner's District A.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts 20 and 22 of the First Ward of the city of Louisville; and voting precincts A1, A2, A3, A7, A9, A29, A30, A40, A47, A48, A49, A52, A54, A55, A56, A59, A60, A61, A62, A66, A67, A73, A78, A79, A111, A113, A116, A121, A122, A131, A140, A142, A143, A144, A145, A148 and A150 of Commissioner's District A.

(49) Forty-ninth District: That part of Bullitt County not contained in the Twenty-seventh District.

(50) Fiftieth District: Nelson and Washington Counties.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County contained in the election precincts of Webbs, Irvins, Esto, Royville, City Hall, Fairgrounds, Eli and Rowes.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County not contained within the Fifty-second and Eighty-third Districts.

(54) Fifty-fourth District: Boyle County; that part of Lincoln County contained in the Census County Divisions of Hustonville and Stanford and in Census Enumeration Districts 564 and 565.

(55) Fifty-fifth District: Mercer, Spencer and Anderson Counties.

(56) Fifty-sixth District: Woodford County; that part of Franklin County contained in election precincts Forks of Elkhorn, Switzer, Peaks Mill, Owenton Road and Swallowfield; that part of Jessamine County not contained in the Thirty-sixth District.

(57) Fifty-seventh District: That part of Franklin County not contained in the Fifty-sixth District.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Oldham and Trimble Counties.

(60) Sixtieth District: That part of Boone County not contained in the Sixty-sixth District.

(61) Sixty-first District: Carroll, Gallatin, Grant and Owen Counties.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crescent Springs 1 and 2; Crestview Hills; Edgewood 1, 2, 3, 4, 5 and 6; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort

Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; Richardson*; and that part of Sandfordtown Precinct west of the L & N Railroad track and west of Madison Pike*.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30 and 43, Decoursey, Independence 1, 2 and 3, Morningview, Nicholson, Oakridge, Piner, *that part of* Sandfordtown *not contained in the Sixty-third District*, Taylor Mill 1 and 2, Visalia, Whites Tower, and Winston Park; and that part of Pendleton County contained in voting precinct Grassy Creek.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 7, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 24, 25, 31, 33, 34, and 42; and that part of Kenton County contained within the city of Ludlow and the *city* [~~precinct~~] of Bromley.

(66) Sixty-sixth District: That part of Boone County containing the following voting precincts: Devon 1, 1A and 2; Florence 1; [~~that part of~~] Florence 3 [~~bounded as follows: beginning at the Boone County line and Old Dixie Highway, then west with Old Dixie Highway to State Highway 1017, then north on State Highway 1017 to Sebree Drive, then west on Sebree Drive to Jortha Avenue, then north on Jortha Avenue to Lloyd, then east on Lloyd and Drexel Avenue to Oakwood Drive, then northeast on Oakwood Drive and High Ridge Avenue to Florence city limits, then east with city limits of Florence to Boone County line, then to point of beginning~~]; Florence 6; that part of Kenton County containing the following voting precincts: *that part of Bromley precinct not contained in Ludlow city and in Bromley city,* Elsmere 1, 2, 3 and 4, Erlanger 1, 2, 3, 4, 5, 6, 7, 8 and 9, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport; that part of Campbell County containing the following voting precincts: Southgate A, B and C, Wilder and Woodlawn; that part of Kenton County containing the following voting precincts: Covington 1, 3, 6, 35, 36, 39, 40, and 41.

(68) Sixty-eighth District: That part of Campbell County containing the following voting precincts Bellevue A, B, C, D, E, F, G, H and I; Dayton A, B, C, D, E, F, and G; Fort Thomas A, B, C, D, E, G, L and P, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs, California, Mentor and Gubser's Mill and Melbourne; Pendleton County precincts Bonar, Sandsuck, and Falmouth 3; and Bracken County precincts Foster, Johnsville, Augusta West and Augusta East.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County not contained in the Sixty-fourth District and in the Sixty-eighth District.

(70) Seventieth District: Mason, Fleming and Robertson Counties; that part of Bracken County not contained in the Sixty-eighth District.

(71) Seventy-first District: Morgan and Rowan Counties; that part of Lawrence County contained in election precincts Martha, Blaine, Brushey and Meades Branch; and that part of Lewis County contained in the election precincts of Concord, Mowers, Tollesboro, *Petersville,* and Burtonsville [~~and in that part of the election precinct of Peterville southwest of a line commencing at the intersection of State Highway 377 at the Rowan-Lewis County line; thence following the centerline of Highway 377 to the Handy Fork Road, thence with the centerline of Handy Fork Road to its termination; thence with a straight line from the end of the Handy Fork Road to the Sargeant Branch Road; thence with the centerline of the Sargeant Branch Road to the intersection of State Highway 509; thence with the centerline of State Highway 509 northeast to Petersville and the intersection of Highway 344; thence northwest with the centerline of Highway 344 to the Burtonville Precinct boundary~~].

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and that part of Powell County west of a line extending from the Montgomery County line south with the centerline of State Highway 213 to State Highway 11 and 15, then westward with the center of State Highway 11 and 15 to the western city limits of Stanton, then eastward around the southern city limits of Stanton to the Mountain Parkway, then eastward with the Mountain Parkway to State Highway 11 and 15, then southward with State Highway 11 and 15 to Cat Creek-High Rock Road, then south with said road and an unnamed branch of Cat Creek to Knowlton Ridge Road, then southward with Knowlton Ridge Road to State Highway 213, then southward with State Highway 213 to the Estill County line.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties.

(75) Seventy-fifth District: That part of Fayette County contained within the following election precincts: Davidson Court, Fayette Park, Hampton Court, Preston Inn, West Main, Church, Deerfield, Fair Grounds, Goodrich, Merino, Open Gates, Picadome, Rodes Addition, Rosemont, Towers, Alabama, Ashland Avenue, Aylesford, Bell Place, Bunker, Campsie, Clifton, College View, Hollywood, Lawrence, Mt. Vernon, and Woodland.

(76) Seventy-sixth District: That part of Fayette County contained within the following election precincts: Blue Acres, Marlboro, Radcliffe, *Aspendale-Bluegrass* [~~Aspendate, Bluegrass~~] Breckenridge, Bryan Station, Castlewood, Crawford, Deep Springs, Dixie, Eastland, Emerson, Helm, Henry Clay,

Hermitage, Idle Hour, Kenwick, Liberty Heights, Loudon, Northern, *Ohio-Walnut* [~~Ohio~~], Rookwood, Victory, [~~Walnut Street~~], Walton, Warfield Place, Augusta, Greenleaf and Delaware.

(77) Seventy-seventh District: That part of Fayette County contained within the following election precincts: Alexandria, Barker, Cardinal Valley, *Douglas-Washington* [~~Douglas~~], Evans, Fairlawn, Garden Springs, Gibson Park, Holiday Hills, [~~Imperial,~~] Julius Marks, Keys, Lane Allen, Larkspur, Meadowthorpe, Oxford, Pine Meadows, St. Martins, Skycrest, Terrace View, Turfland, Versailles *Road* [~~Pike~~], Viley Heights, Washington, Wolf Run, Barkley, Lafayette, Clays Mill, Hill-n-Dale, Indian Hills, Longview, Pershing, Southview and *Arlington-Imperial* [~~Arlington~~].

(78) Seventy-eighth District: That part of Fayette County contained within the following election precincts: Beaumont, Meridian, The Colony, Airport *North, Airport South,* Blueberry Hills *South, Blueberry Hills West,* Brigadoon, Brookhaven, Camelot, Glendover, Hinda Heights, Keithshire, Lansdowne, Leawood, McDowell *East, McDowell West,* Malabu, Montavesta *East, Montavesta West,* Monticello, Redding Road, Shadeland, Shady Lane, Stone, Stonewall, Wem, Zandale, Robinwood, South Point, *South Point North,* Tudor, Bayswater, Kirklevington *East, Kirklevington West,* Stoneybrook, Surfside, and Plantation.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following election precincts: Fairway, Gainesway, Lakeview *North, Lakeview South,* Mt. Tabor, Merrick, Richmond Road, Shrine, Southeastern Hills, Tates Creek, Walnut Hill, Delong, *Delong East,* River Park, Blairmore, Edgewater, Ascot, Park Hills *North, Park Hills South,* Cove Lake *North, Cove Lake South,* Chevy Chase, Chilesburg, Duke, Ellerslie, Fontaine, Woodspoint, Alsab, and Ridgeway.

(80) Eightieth District: Rockcastle County; that part of Lincoln County not contained in the Fifty-fourth District; that part of McCreary County not contained in the Eighty-second district; and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 29, Good Hope 28, Dallas, Mayfield, Mt. Victory, Sloans Valley, Gamblin, Buncombe, and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Thirty-sixth District.

(82) Eighty-second District: That part of Whitley County not contained in the Eighty-seventh District; that part of McCreary County contained within Census Enumeration Districts 182, 183, 185 and 186.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District; and that part of Russell County contained in the election precinct of Jabez.

(84) Eighty-fourth District: Estill, Lee and Menifee Counties; that part of Powell County not contained in the Seventy-third District; and that part of Jackson County not contained in the Ninetieth District.

(85) Eighty-fifth District: Laurel County.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts Harts Branch, Horse Creek, Manchester, Garrard, *Portersburg* and Whites Branch.

(87) Eighty-seventh District: Bell County and that part of Whitley County southeast of a line beginning at the Tennessee State line, following the Pine Mountain Divide northeastward, then westward with the Vanderpool Mountain Divide to the Rose Creek-Seng Branch Divide, then northward with said divide to the Gatliff Lookout Road, then with said road to State Highway 904, then eastward with State Highway 904 to State Highway 1809, then northward with State Highway 1809 to the Knox County line.

(88) Eighty-eighth District: That part of Harlan County not contained in the Thirty-ninth District.

(89) Eighty-ninth District: Breathitt, Wolfe and Magoffin Counties.

(90) Ninetieth District: Leslie County; that part of Jackson County contained in Census Enumeration Districts 81, 82, 83 and 76U; that part of Clay County not contained in the Eighty-sixth District; that part of Owsley County contained in election precincts Island Creek, Sturgeon, *Booneville South, Booneville North* and Elk Lick.

(91) Ninety-first District: That part of Perry County contained in the election precincts of Whitaker, Little Leatherwood, Cornettsville, Fusonia, Vicco, Happy, Jeff, Farmertown and Christopher; that part of Pike County south and west of a line beginning at the Letcher County line, then northeast with the Marshall Branch-Booker Branch Divide and the Orchard Branch-Blaze Branch Divide to Gale Road, then with the Gale Road to its intersection with U.S. Highway 23, then in a straight line eastwardly to Herman Siding Station, then south-southeast with northern boundary of Dorton Census County Division to the Virginia state line and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott County; that part of Letcher County contained in the voting precincts of Ison, Colson, Marion, Blackey, Doty and Baker; that part of Floyd County contained in the voting precincts of Rock Fork #37, Wayland #18, Lackey #17, Bosco #15, Beechgrove #41, Jack Allen, Middle Creek #8, Maytown, Rough and Tough #12, Abbott #35, and Garrett #16.

(93) Ninety-third District: That part of Pike County not contained in the Ninety-first and Ninety-fourth Districts.

(94) Ninety-fourth District: That part of Pike County contained in the Census County Divisions of Pikeville, Mayflower, Raccoon, Sidney and South Williamson and Census Enumeration Districts 505 and

506.

(95) Ninety-fifth District: That part of Floyd County not contained in the Ninety-second District.

(96) Ninety-sixth District: Carter County; that part of Lewis County not contained in the Seventy-first District; that part of Greenup County contained in Census Enumeration District 831.

(97) Ninety-seventh District: Johnson and Martin Counties.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-sixth and One hundredth Districts.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County not contained in the Seventy-first District; that part of Boyd County containing the following voting precincts: Court House, City Building, Argo, Hampton, England Hill, Durbin, East Fork, Cannonsburg, Princess, Garner , Hoods Creek, Fairview, Buckley #1, Buckley #2, Westwood , Fannin, Ashland Oil and Greenhill.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District and that part of Greenup County contained in the city of Bellefonte.

Section 37. KRS 6.041 is amended to read as follows:

(1) Any reference in KRS 6.011 and 6.031 to a census unit, city, county, road, highway or stream means that census unit, city, county, road, highway or stream as its boundaries or location existed on January 1, 1980.

(2) Any reference to a ward, commissioner's district or precinct means that ward, commissioner's district or precinct as its boundaries existed on July 15, 1980, *and except that for purposes of KRS 6.031:*

(a) Any reference to Trigg County election precincts or other territory shall mean those precincts or territory as their boundaries existed on January 1, 1984;

(b) Any reference to the Madison County election prcincts of Middletown and Menales Todd shall mean those precincts as their boundaries existed on January 1, 1984; and

(c) Any references to Fayette County election precincts shall mean those precincts as their boundaries existed on January 1, 1984.

And, on page 77, line 10, by changing "Section 36" to "Section 38"; and

On page 77, line 13, by changing "Section 37" to "Section 39"; and

On page 78, line 7, by changing "Section 38" to "Section 40";

On page 78, line 24, by inserting after "Elections," the phrase "and whereas this Act alters the boundaries of representative districts in which primary elections will be held in May of 1984,"; and

On page 78, line 26, by deleting "and 36" and by inserting in lieu thereof ", 36, 37 and 38".

Floor Amendment No. 10 to **SB 56,** by Representative LeMaster:

Amend printed copy of House Committee Substitute to **SB 56** on page 1, line 17, after "*generally*" and before the "." *insert the following language: ", provided that, voters shall be permitted at any regular election to cast write-in votes for any person according to the procedures prescribed by law for write-in votes generally*"

On page 6, after line 8 add the following:

"*(18) If a vacancy occurs after the nominating primary, the vacancy shall be filled by certifying the person who received the next highest vote count in the primary.*"

Floor Title Amendment to **SB 230,** by Representative Gray:

Amend printed copy of GA copy of **SB 230** on page 1, title, by deleting "adjunct instructors for".

Floor Amendment No. 1 to **SB 230,** by Representative Gray:

Amend printed copy of GA Copy of **SB 230,** page 2, after line 12 by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The superintendents of all school districts shall be elected by the legal voters of the district at the

first regular November election in which local government officials are elected.

(2) The person elected to the office of school superintendent shall take office on the first Monday in January following his election and shall hold office for a term of four (4) years and until his successor is elected and qualified.

(3) No person shall be eligible as a candidate for the office of school superintendent who does not at the time he files his papers with the county clerk hold a certificate of administration and supervision issued by the state board of education in accordance with the provisions of law. The elected superintendent shall hold such a certificate throughout his term of office.

(4) The district board of education shall fix the salary of the superintendent prior to his election at a rate of not less than twelve thousand dollars ($12,000) per annum to be paid in equal monthly installments.

(5) When a vacancy occurs in the office of school superintendent, the district board of education shall appoint a person who meets the qualifications of subsection (3) of this section to the office for the unexpired part of the term only.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) All elections for school superintendent shall be by voting machine. The ballot label shall be in the form prescribed by the general election law, except that no party emblem or other distinguishing mark which indicates the political affiliation of any candidate shall be placed upon the ballot label; provided, however, that "school ballot" shall be at the head of the ballot label.

(2) The county clerk shall cause to be printed on the ballot label the names of all eligible candidates who have filed a petition as provided in KRS 118.315. The order in which the names of the candidates are to be printed on the ballot label shall be determined by lot.

(3) No election officer or other person within a polling place shall tell or indicate to a voter the political affiliation of any candidate for the office of school superintendent.

(4) The expense of the election of the office of school superintendent shall be paid by the fiscal court.

SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

Any superintendent of schools may be removed for cause by a vote of the majority of the members of the board of education of the district. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent at least fifteen (15) days before action is taken on the removal.

Section 5. KRS 160.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 160.250 *and Section 3 (3) of this Act* shall be fined not more than two hundred dollars ($200).

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten (10) nor more than fifty dollars ($50.00).

(3) Any superintendent who violates any of the provisions of KRS *160.370* [~~160.350~~] to 160.400 shall be fined not less than one hundred (100) nor more than one thousand dollars ($1,000) for each offense, and the violation is grounds for revocation of his certificate.

(4) Any superintendent who violates any of the provisions of KRS 160.420 shall be fined not less than one hundred (100) nor more than one thousand dollars ($1,000) for each offense.

(5) Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty (50) nor more than one hundred dollars ($100), and shall be subject to removal from office.

Section 6. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.720 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; Provided, however, That any board of education may grant a leave of

absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or reaches the age of 65, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.720 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer *elected by the legal voters of the school district as provided in Section 2 of this Act* [~~appointed by a board of education under the authority of KRS 160.350~~] or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employe, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, or school business administrator, or who holds a position in which he evaluates or supervises board employes or recommends personnel for employment or discharge. The term "administrator" shall also include those assistant, associate or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

Section 7. The following KRS sections are repealed:

160.350 Superintendent of schools -- Appointment -- Term -- Salary-- Vacancy -- Qualifications -- Removal.

161.721 Superintendent eligible for continuing contract status."

Floor Amendment No. 2 to **HB 69**, by Representative Williams:

Amend printed copy of **HB 69** on page 2, below line 4 to add the following:

"*(5) This section shall not apply to:*

(a) Persons twenty-one (21) years of age or older; or

(b) Persons under the age of twenty-one (21) who have successfully completed a driver education program, other than the one specified in subsection (1), approved by the transportation cabinet."

Floor Amendment No. 1 to **HB 179**, by Representative Blevins:

Amend printed copy of Committee Substitute to **HB 179** page 3, line 25, by deleting "*appoint four (4)*" and inserting in lieu thereof "*consider including an equal number of*";

And on line 25, by deleting "*four (4)*";

And on page 4, line 2, by adding after "*therapists*" the following: "*as well as representation by a citizen at large not associated with or financially interested in the practice or business being regulated*";

And on line 6, by deleting "*the*" and substituting in lieu thereof "*a citizen member.*";

And by deleting lines 7, 8 and 9 in their entirety.

Floor Title Amendment to **HB 431**, by Representative Morris:

Amend printed copy of **HB 431** on page 1, by amending the title to read as follows:

"AN ACT relating to law enforcement foundation program, professional firefighters foundation program and volunteer fire department aid funds."

Floor Amendment No. 2 to **HB 431**, by Representative Morris:

Amend printed copy of Committee Substitute to **HB 431** on page 17, line 14, by adding the following:

"Section 16. KRS 17.250 is amended to read as follows:

(1) There is created and established within the department of housing, buildings and construction a volunteer fire department aid fund consisting of insurance premium surcharge proceeds as provided in subsection (2) of KRS 136.392. All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified herein and in KRS 61.316.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the state fire marshal shall allot on an annual basis an equal share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized by the department of housing, buildings and construction as fire departments operated and maintained on a nonprofit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth. He shall prescribe regulations and standards for determining the amounts to be granted. Such standards shall be based on the number of both paid fire fighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. No allotment shall exceed the total value of the funds, equipment, lands and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) For the biennium beginning July 1, 1982 and ending June 30, 1984, two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the volunteer fire department aid fund shall be allocated to the fire fighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for fire fighters. Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the commission on fire protection personnel standards and education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding of fire fighters training center funds shall be submitted to the commission on fire protection personnel standards and education for their recommendation, approval, disapproval or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of *fifty percent (50%)* [~~seventy-five percent (75%)~~] of its personnel certified as recognized by the commission on fire protection personnel standards and education.

(6) Upon the written request of any department, the commission on fire protection personnel standards and education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the volunteer fire department aid fund during any fiscal year."

Floor Amendment No. 1 to **HB 486**, by Representative B. Richardson:

Amend printed copy of Committee Substitute to **HB 486** on page 17 by deleting lines 4 thorugh 26 in their entirety and by deleting pages 18, 19 and 20 in their entirety;

Page 21, by deleting lines 1 through 3 in their entirety;

Page 21, line 4 by changing "Section 19" to "Section 16";

Page 24, line 11 by changing "Section 20" to "Section 17";

Page 24, line 22 by changing "Section 21" to "Section 18";

Page 25, line 25 by changing "Section 22" to "Section 19";

Page 26, line 14 by changing "Section 23" to "Section 20";

Floor Amendment No. 2 to **HB 486,** by Representative Riner:

Amend printed copy of Committee Substitute to **HB 486** on page 28, line 25, following the word "*offender.*" insert:

"Section 24. KRS 531.300 is amended to read as follows:

As used in KRS 531.080 and 531.310 to 531.370:

(1) "Distribute" means to transfer possession of, whether with or without consideration.

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.

(3) "Obscene" means:

(a) [~~To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and~~

~~(b)~~] The matter depicts or describes the sexual conduct by a minor [~~in a patently offensive way~~]; and

(b)[~~(c)~~] The matter[~~, taken as a whole,~~] lacks serious literary, artistic, political, or scientific value*; or*

(c) The matter promotes incest or pedophilia.

(4) "Sexual conduct by a minor" means:

(a) Acts of masturbation, homosexuality, lesbianism, bestiality, *incest,* sexual intercourse, or deviant sexual intercourse, actual or simulated; or

(b) Physical contact with *the genitals*, or obscene exhibition of the genitals; or

(c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or

(d) The exposure[~~, in an obscene manner,~~] of the unclothed or apparently unclothed human male or female genitals, *or* pubic area [~~or buttocks, or the female breast~~], whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution *or use* outside the family.

(5) "Performance" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience.

(6) "Sexual performance" means any performance or part thereof which includes sexual conduct by a minor.

(7) "Promote" means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

Floor Amendment No. 3 to **HB 486,** by Representative Barrows:

Amend printed copy of Committee Substitute to **HB 486** on page 24, line 19 following "*activity*" to add "*constituting a felony*";

And on page 25, line 12. to remove the bracket "[" before "He" and to delete the strike through on the remainder of the line;

And on page 25, line 13, to delete the strike through of "minor to engage in" and to place a bracket "[" following "in" and on page 25, line 16, to place a bracket "]" after the word "or" and to delete the strike through of the remainder of the line;

And on page 25, lines 26 and 27 to delete the strike through and bracket;

And on page 25, line 20, to delete "*(c)*" and to remove the brackets and strike through of "(d)".

Floor Amendment No. 1 to **HB 612,** by Representative Thomas:

Amend printed copy of **HB 612** on page 1, line 8 by removing the opening bracket after "county" and deleting the strike through;

On page 1, line 9 by removing the closing bracket before ", the " and deleting the strike through;

On page 1, line 10 by placing an opening bracket before "consist" and by placing a closing bracket after "(3)" and by striking through the words "consist of three (3)";

On page 1, line 10 by deleting "*commissioners.*";

On page 1, lines 11 and 12 by deleting lines 11 and 12 in their entirety;

On page 1, line 21 after "to" by inserting "*two (2) additional*"; and

On page 2, line 1 by placing an opening bracket before "five", by placing a closing bracket after "(5)" and by striking through "five (5)".

Floor Amendment to **HB 615**, by Representative Hancock:

Amend printed copy of **HB 615** on page 1, by amending the title to read as follows:

"AN ACT relating to deferred compensation programs for the benefit of public employes and officials."

Floor Amendment No. 1 to **HB 746**, by Representative Little:

Amend printed copy of **HB 746** page 1, line 6 by deleting all new material, brackets, and strike throughs.

Page 1, line 13, after the word "appointment." add the following:

"*In no case shall the new superintendent's contract extend beyond the contractual period of his predecessor.*"

Floor Amendment No. 1 to **HB 781**, by Representative Patrick:

Amend printed copy of **HB 781** on page 1, line 14, by inserting after the word "*business.*" the following section:

"Section 2. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, 224.140, 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, permit, rule, regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of ten thousand dollars ($10,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(2) Any person who violates KRS 224.835, 224.882, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, rule, regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who knowingly or with criminal negligence violates KRS 224.060, 224.140, 224.255, 224.330, 224.880 or any determination, permit, rule, regulation or order of the cabinet promulgated pursuant to those sections which have become final or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000) or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) Should any person engage in generation, treatment, storage, transportation, or disposal of

hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter or fail to provide information or to meet reporting requirements required by terms and conditions of a permit or regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation or disposal of hazardous waste in violation of this chapter, or contrary to a permit, order, or regulation issued or promulgated under this chapter or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering *shall* [~~may~~] be ordered by the court to pick up litter for not less than *forty (40)* [~~four (4)~~] hours *in a diligent manner acceptable to the court.*"

Floor Amendment No. 1 to **HB 814**, by Representative Donnermeyer:

Amend printed copy of **HB 814** page 2, on line 25, delete period and insert a semicolon.

Add line 26 by inserting *however, nothing in this section is to be construed as limiting a majority of the fiscal court from discharging an employe for just cause.*

Floor Amendment No. 1 to **HB 847**, by Representative Burch:

Amend printed copy of **HB 847** on page 6, line 10, by deleting the following: "*, 4 and 5*" and inserting in lieu thereof: "*and 4*";

And on page 11, by deleting lines 2 through 7 in their entirety;

And on page 11, line 8, by deleting "*Section 6.*" and inserting in lieu thereof: "*Section 7.*"

Adjournment

Representative LeMaster moved that the House adjourn until 2:00 p.m., Tuesday, March 13, 1984.

On the roll call the vote was yeas 72-Allen, Arnold, Bendl, Bennett, Blevins, Brinkley, Bronger, Brown, Burch, Caldwell, L. Clark, P. Clark, Clarke, Cline, Cowan, Craddock, Crupper, Curd, Dawahare, Donnermeyer, Dunn, Endicott, Farrow, Ford, Freibert, Fryman, Gedling, Gray, Hancock, Handy, Harper, Head, Heleringer, Holloway, R. Jones, T. Jones, Kenton, Kidd, Lefevers, LeMaster, Lile, Long, Mann, McBee, McElroy, McNutt, Moberly, Morris, Noe, Noland, O'Brien, Pearman, Petty, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Robinson, B. Smith, F. Smith, Stumbo, Thomas, Thomason, Todd, Turner, Van Horn, White, Williams, Worthington, Yates. Nays 2-Holbrook, Perkins.

The motion to adjourn was adopted.